(2026:HHC:14080)

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.10106 of 2024

Decided on: 28.04.2026

Chander Mohan Sharma **…..Petitioner**

Versus

State of H.P. and others **.....Respondents**

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?[1]

For the Petitioner: Mr. Atharv Sharma, Advocate.

For the Respondents: Mr. Anup Rattan, Advocate General with Ms. Menka Raj Chauhan and Ms. Seema Sharma, Deputy Advocates General, for respondent No.1.

Mr. Raman Ravi Verma, Advocate, for respondent No.2.

Mr. Mukul Sood, Advocate, for respondent No.3.

Mr. Sudhir Thakur, Senior Advocate with Mr. Somesh Sharma, Advocate, for respondents No. 4 to 10.

Jyotsna Rewal Dua, Judge

This writ petition has been filed for grant of following substantive reliefs:-

> "(i) That the impugned order dated 01.03.2024 Annexure P-7, issued by RERA authority being ex facie bad in the eyes of law may kindly be quashed and set-aside with directions to the RERA authority to take into consideration the provisions of the Act

[1]Whether reporters of print and electronic media may be allowed to see the order? Yes.

and Rules and direct respondent No.4 to get himself registered as promoter and his projects as real estate project and then proceed in the matter in accordance with law with respect to Annexures P-2 to P-4 and further directions may be issued to respondents No.1 to 3 to take action accordingly with respect to projects of private respondent herein on the spot in question in the shape of getting said projects sealed and from raising further construction of nay kind whatsoever and respondents No. 1 to 3 may very kindly be directed to visit the spot and get the construction work stayed and further make report with respect to violations and submit the same in this Hon'ble Court.

(ii). That directions may be given to respondents No. 1 to 3 to get strata of the place in question checked, verified from the experts of Roorkee authorities with further directions that the report so submitted, may be placed on records of this case. Further respondents No. 1 to 3 may be directed to take action accordingly with respect to projects in question.

(iii). That directions may kindly be issued to respondents No. 1 to 3 to get an F.I.R registered against respondent No.4 as per Bhartiya Nyaya Sanhita, 2023 and take the said case to its logical end.

(iv) That directions may be given to respondent No.1 to look into the matter personally and the officers/officials being in the held of affairs in illegally and arbitrarily extending help to respondent No.4 by committing frauds, matter may be got enquired from an independent agency and to take action against officers/ officials for misconduct as per provisions of the Act and Rules so that the same may be an eye opener to others not to take law in their hands, that too to harass and humiliate the innocent persons like petitioner.

(v) That respondent No.4 may be burdened with special exemplary costs as per provisions of Section 35-A of CPC and may be ordered to be paid to the petitioner for bringing truth to see light of the day,

> that too when even threats are being extended to him to do away with his life by respondent No.4.
> (vi) That new GPA as got prepared by respondent No.4 may be ordered to be revoked by issuing directions to the concerned registering authority(s).”

2. **Heard** learned counsel for the parties and considered the case file.

3. The main grievance of the petitioner is that construction being carried out by the private respondents on the spot is in violation of Municipal Rules and also Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the Act).

4. It has been contended that respondent No.4 got a General Power of Attorney from respondents No. 5 to 10 whereafter he approached the concerned revenue authorities and got the land marked under tatima for three plots. Since the construction being carried out by respondent No.4 was illegal, the petitioner approached the learned National Green Tribunal by filing Original Application No. 745/2022. The said petition was disposed of on 17.10.2022 as under:-

> “2. It is pointed out that draft development plan was sought to be introduced by the H.P. Government in violation of judgment of this Tribunal which has been disapproved and set-aside by the Tribunal vide order dat ed 14.10.2022 in O.A. 297/2022, Yogendra Mohan Sengupta v. UOI & Ors.

> 3. In view of above, we direct that the matter be looked into in the first instance by the High-Powered Committee in terms of judgment of this Tribunal dated 16.11.2017 in O.A. No. 121/2014, supra headed by Secretary, Urban Development, H.P. and take remedial action in accordance with law
>
> The application is disposed of.
>
> If any grievance survives, it will be open to the applicant to take remedies afresh.
>
> The applicant may serve a set of papers with a copy of this order on Secretary, Urban Development, H.P. and file affidavit of service within one week."

In terms of above order, directions were issued to High-Powered Committee constituted in terms of previous decision of learned Tribunal dated 16.11.2017 rendered in O.A. No.121/2014 to look into the matter.

Its an admitted position of the parties that decision rendered by learned National Green Tribunal on 16.11.2017 in O.A. No. 121/2014 (Yogendra Mohan Sengupta v. UOI & Ors.) was set-aside by Hon'ble Apex Court in ***State of Himachal Pradesh and others versus Yogendera Mohan Sengupta and another***.[2]

Learned counsel for the petitioner next pointed out to different note sheets appended at Annexure P-6 in order to support his submission about respondent No.4 to be deemed as promoter and thus would fall within the ambit of the Act and therefore, he was required to be registered as such under the provisions of the Act. That respondent

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No.4 had played fraud upon RERA. Attention was further invited to page 84 (Annexure P-7) containing Minutes of 59th Meeting of RERA held on 14.02.2024, in terms whereof, RERA had decided “this is not a Real Estate Project as the GPA has been cancelled and there are no common facilities in the three individual projects each having less than 500 Sq. m. area and not more than 8 Dwelling Units. Thus, it does not attract the provisions of Section 3(2)(a) of Real Estate (Regulation & Development) Act, 2016. Hence, it was decided to drop all the proceedings in this matter…..”

The aforesaid document (Annexure P-7) & decision taken therein has been questioned by the petitioner in the instant writ petition.

It is not in dispute that petitioner himself has never lodged any complaint before RERA against the respondent. He never represented to RERA with allegations/grievances as raised in this petition. Several allegations & assertions have been made by petitioner in this writ petition about respondent No.4’s status to be deemed as promoter. These allegations, which are disputed on facts by the respondents, fall within domain of the Act and therefore, are required to be urged before the

appropriate Forum. It is for the petitioner to move appropriately in accordance with the provisions of the Act.

4(ii). Learned Counsel for the petitioner also submitted that there is deviation in the construction of the building by the respondents from the approved building plans; That the respondent No.3- Municipal Corporation has admitted that building has been constructed with some deviation from the approved building plans. Learned counsel for the Municipal Corporation submits that these deviations can be regularized within the compoundable limit. Be that as it may At this stage, learned counsel for the respondents have invited attention to a Civil Suit filed by the petitioner against respondents No. 3 to 6. The said Civil Suit was instituted in the Court of learned Senior Civil Judge, Court No.2, Shimla for seeking relief of declaration as also permanent prohibitory injunction as under:-

> "i. A decree for Declaration declaring that Sanction bearing No. 64(AP) dated 06.04.2021 obtained by the Defendants No. 2 & 3 from M.C. Shimla is null and void as it was obtained by making fraudulent statements and misrepresentation at their instance by the Defendant No.1.
> ii. A decree for permanent prohibitory injunction restraining the Defendants from raising any construction in pursuance of said sanction bearing No. 64(AP) dated 06.04.2021 given by M.C. Shimla to Defendants No. 2 7 3 on Khata No.87/111, Khatauni No.126/168, Khasra No.987/2, 985/2, 981/2, 980,

983/1/1, 986/1 and 985/3, Mauza Dhar (Tutikandi), Shimla, since the said sanction is null and void.

iii. Any other decree in alternative to above which this Hon'ble Court may deem just and proper in the facts and circumstances may kindly be passed in favour of plaintiff and against the defendant."

Copy of plaint has been appended as Annexure R-4-10/1. An application moved in the above referred civil suit by the petitioner under Order 39 Rules 1 & 2 Civil Procedure Code seeking relief of injunction to restrain the defendants from raising any construction over the suit land (which is the subject matter in the instant petition as well) was dismissed on 06.05.2022 holding therein that three ingredients required for grant of interim injunction did not exist in petitioner's favour. The order is stated to have attained finality.

5. In view of above facts as have come up on record, it will not be appropriate to entertain this writ petition. Accordingly, petition is dismissed. It is for the petitioner to pursue appropriate remedy in accordance with law for the redressal of his grievances. Pending miscellaneous application(s), if any, to also stand disposed of.

Jyotsna Rewal Dua
Judge

April 28, 2026
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