
(2021) 02 SHI CK 0122
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 639 Of 2021

Chamel Singh

APPELLANT

Vs

State Of H.P. And Others

RESPONDENT

Date of Decision : 09-02-2021

Acts Referred:

Himachal Pradesh Public Premises And Land (Eviction And Rent Recovery) Act, 1971 — Section 9

Citation : (2021) 02 SHI CK 0122

Hon'ble Judges : Jyotsna Rewal Dua, J

Bench : Single Bench

Advocate : Ajay Shandil, Vaid, Arvind Sharma, Raju Ram Rahi

Final Decision : Disposed Of

Judgement

Jyotsna Rewal Dua, J

1. Notice. Mr. Hemant Vaid, learned Additional Advocate General, appears and waives service of notice on behalf of the respondents/State.

2. No reply is required in view of the order being passed hereinafter.

3. It is appears from the record that eviction petition filed against the petitioner by the respondents was allowed by the Collector&Assistant

Conservator Forest Nahan vide order dated 22.07.2016 passed under the Himachal Pradesh Public Premises Land (Eviction) and Rent Recovery Act

1971. The petitioner was held to be illegally occupying the Government forest land to the extent of 3.00 bighas reserved forest Kasoga C&4 in Patandi

Beat of Jamta Range Nahan Forest Division and was ordered to vacate the land. The petitioner challenged this order before the Divisional

Commissioner Shimla and Sirmour Division under Section 9 of Himachal Pradesh Public Premises Land (Eviction) and Rent Recovery Act 1971 and

inter alia submitted that his ancestors have been in possession of the land in question for decades together. This appeal was dismissed in default on

30.06.2017. It was restored on 30.08.2017. The appeal was again dismissed in default on 27.10.2018 and restored on 15.01.2019. The appeal for the

third time was dismissed in default on 29.06.2019. Thereafter an application was filed on behalf of the petitioner on 12.9.2019 for restoration of this

appeal. The application seeking restoration of the appeal has been dismissed by the Divisional Commissioner Shimla vide impugned order dated

4.01.2020. Aggrieved, petitioner has preferred the instant writ petition.

4. Heard learned counsel for the parties and gone through the appended record including the impugned order.

5. It is apparent that the petitioner has been absolutely callous in pursuing his appeal before the learned Court below. It is not once but thrice that his

appeal came to be dismissed in default. The conduct of the petitioner in pursuing the matter as noticed above speaks volume about lack of due

diligence on part of petitioner in pursuing the matter before the authority below. Even the present writ petition has been filed more than a year after

the dismissal of application seeking restoration of appeal. During hearing of the case, learned counsel for the petitioner on the strength of Annexure

PÂ5 argued that the petitioner was not aware of passing of the impugned order prior to January 2021, as no intimation in that regard was furnished to

him by his counsel and further that he has already preferred a complaint against his counsel in that regard. He further submits that for non presence of

his counsel in the appeal, the petitioner may not be made to suffer. Be that as it may. Through the impugned order cannot set to be suffering from any

infirmity in light of the facts noticed above. However, in the interest of justice one last opportunity is afforded to the petitioner for arguing his appeal on

merits before the learned Divisional Commissioner Shimla, subject to payment of costs of Rs.10,000/Â to be deposited by the petitioner within a period

of two weeks from today with Himachal Pradesh Legal Services Authority, Shimla. Petitioner shall appear before the Court of learned Divisional

Commissioner on 16.03.2020 alongwith receipt of deposit of the aforesaid costs, when a date shall be granted to him for hearing his appeal on merits.

It is further made clear that the matter shall not be adjourned thereafter.

In case of failure of petitioner to abide by this order, his appeal shall not be

revived and consequential action shall follow.

With these observations, the instant writ petition is disposed of, so also the pending applications, if any.

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