
(2020) 10 SHI CK 0379
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 4121 Of 2020

Charan Dass

APPELLANT

Vs

Municipal Corporation, Shimla And Others

RESPONDENT

Date of Decision : 08-10-2020

Acts Referred:

Citation : (2020) 10 SHI CK 0379

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Naresh K. Sharma, Naresh K. Gupta, Tarun K. Sharma

Final Decision : Disposed Of

Judgement

Ajay Mohan Goel, J

1. By way of this petition, the petitioner has inter alia prayed for the following reliefs:-

"(i) That writ of mandamus may kindly be issued, directing the Respondent No. 1 not to cause any damage to the fruit and vegetable shop/stall being run by the petitioner bear Chhota Shimla Rickshaw Shed No. 6 by demolishing the common wall or in the alternative, the respondent No. 1 be directed to construct the wall instead of common wall separately for the shop/stall of the petitioner or to get constructed a shop at the suitable and vacant place near to the shop/stall of the petitioner at Chhota Shimla Rickshaw Shed No. 6 and allot the same to the petitioner on usual rent."

2. When this case was listed on 01.10.2020, in view of the submissions made by learned Counsel for the petitioner, learned Counsel appearing for respondents No. 1 and 2 were called upon to have instructions.

3. Today, Mr. Naresh K. Gupta, learned Counsel for respondent No. 1, on instructions, informs the Court that in case the petitioner applies for allotment of shop/premises to respondent No. 1, then, his case shall be considered by the

Corporation, in accordance with law, though as per respondent No. 1, the petitioner is an unauthorized occupant of the premises.

4. Learned the petitioner is application for the Counsel for the petitioner submits that not averse to making an appropriate allotment of the shop/premises to the Municipal Corporation, Shimla, however, it may be observed by this Court that as the petitioner is earning his livelihood by running a fruit and vegetable shop in the premises in issue, the application of the petitioner be decided by the Corporation at the earliest and sympathetically keeping in view the fact that petitioner is running the shop at Chhota Shimla.

5. Having heard learned Counsel for the parties and in view of the fair stand which has been taken by the learned Counsel for respondent No. 1, this petition is disposed of with the observation that the petitioner shall be at liberty to approach respondent No. 1 for the grant of appropriate accommodation to him and in the event of any such application being made by the petitioner, then, the same be considered by the Corporation sympathetically keeping in view the fact that the petitioner is being dispossessed from the present premises at Chhotta Shimla from where he is earning his livelihood. This Court is not going into the issue as to whether the possession of the petitioner over the shop/ premises presently in his possession is authorized or unauthorized. The observation which has been made by the Court by calling upon respondent No. 1 to sympathetically look into the claim of the petitioner is on account of the fact that it has not been disputed that source of livelihood of the petitioner is the fruit and vegetable shop which he is presently running from the premises in issue.

The writ petition stands disposed of in above terms, so also pending miscellaneous application(s), if any.