
(2020) 09 SHI CK 0287

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 2805 Of 2020

Dharam Singh

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 16-09-2020

Acts Referred:

Citation : (2020) 09 SHI CK 0287

Hon'ble Judges : L. Narayana Swamy, CJ;Anoop Chitkara, J

Bench : Division Bench

Advocate : Daleep Chand, Ashok Sharma, Adarsh K. Sharma, Ritta Goswami

Final Decision : Disposed Of

Judgement

L. Narayana Swamy, CJ

1. An eviction notice was issued to the petitioner on the ground that he has encroached upon the forest land. The said notice has been assailed by the petitioner by way of the petition in hand seeking a direction to the respondents not to interfere in the peaceful possession of the land since he is in possession of the said land for the last forty years.

2. Ms. Ritta Goswami, learned Additional Advocate General, submits that the land in issue is a forest land and after noticing the fact that the petitioner is in illegal occupation of the land, the notice has been issued to him to vacate the land and it is impermissible for the petitioner to challenge the said notice, at this stage.

3. We have heard the learned counsel for both the parties.

4. Where a notice has been issued directing the petitioner to vacate the land, per se, it is not proper on the part of the respondents-Government to direct the petitioner to vacate the land until and unless an opportunity of being heard is given to him.

5. In this backdrop, the respondents are directed to proceed in the matter

treating the notice impugned in the instant writ petition as a show cause notice and give an opportunity to the petitioner to file reply to the same, within a period of three weeks, and produce the record, if any, to establish his plea of legal possession. Thereafter, in case the respondents are not satisfied with the reply filed by the petitioner, it is for the respondents to proceed further and pass appropriate orders strictly in accordance with law. The petitioner is directed to participate in the proceedings as and when required by the respondents-Government.

6. With these observations, the petition stands disposed of alongwith all pending miscellaneous applications.