

(2020) 09 SHI CK 0295
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 1611 Of 2019

Kapil Sharma

APPELLANT

Vs

State Of H.P. & Others

RESPONDENT

Date of Decision : 16-09-2020

Acts Referred:

Citation : (2020) 09 SHI CK 0295

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

Bench : Division Bench

Advocate : Atul G. Sood, Ashok Sharma, Adarsh K. Sharma, Romesh Verma

Final Decision : Disposed Of

Judgement

L. Narayana Swamy , CJ

1. The case of the petitioner is that private respondents are in encroachment of forest land. Hence, the petitioner prayed for direction to the respondents to evict the encroachers from the forest land.

2. Learned counsel for the petitioner submits that since it is forest land and in view of judgment delivered by Hon'ble Supreme Court in T.N. Godavarman Thirumulkpad vs. Union of India, (1997(2) SCC 267 non-forest activities could not have been done in the forest land.

3. On the other hand, learned Additional Advocate General submits that proceedings have been initiated against the encroachers and it shall be disposed of by evicting the encroachers in accordance with law. Learned counsel for the petitioner submits that if this is the case, the present petition be disposed of by directing the respondents to consider the case of respective parties, evict the encroachers and dispose of the proceedings, in accordance with law.

4. We have heard learned counsel for the parties and gone through the record.

5. The case of the petitioner is that private respondents are in encroachment of

the forest land whereas the case of the private respondents is that they have preferred an appeal before the appropriate authority for regularization. If this is the disputed fact, it is for the statutory authority under the relevant provisions to initiate action and give a specific finding as to whether private respondents are encroachers of the forest land and secondly, whether the encroached area is a forest land. If the respondent-government comes to the conclusion that the private respondents are in occupation of the forest land, then it is for the respondent-government to pass appropriate orders.

6. Under these circumstances, we feel that the pendency of this petition is of no use as there cannot be dual proceedings to be initiated for the same cause. Accordingly, we dispose of this petition with a direction to the Government to expedite the matter and pass appropriate orders strictly in accordance with law. However, it is made clear that affected persons be heard before passing any order of eviction.

7. Pending application(s), if any, also stand(s) disposed of.