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**(1996) 12 SHI CK 0026**  
**In the High Court Of Himachal Pradesh**  
**Case No : C.W.P. No. 190 of 1985**

Khushi Ram and Others

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

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**Date of Decision :** 24-12-1996

**Acts Referred:**

Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974 — Section 3, 8

**Citation :** (1997) 2 ShimLC 215

**Hon'ble Judges :** M. Srinivasan, C.J.; L.S. Panta, J

**Bench :** Division Bench

**Advocate :** Praneet Gupta, for the Appellant; M.L. Chauhan, A.A.G. for Respondents 1 to 4, K.D. Sood, for Respondents 42 to 44 and Ramakant Sharma, for Respondents 5 to 25, for the Respondent

**Final Decision :** Dismissed

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## Judgement

M. Srinivasan, C.J.—In this writ petition the Petitioners are residents of village Gajandli, Tehsil Rohru, District Shimla, H.P. It is stated in second paragraph of the petition that the Petitioners are filing the writ petition for the benefit of the other estate right holders of village Gajandli and they have common interest with those of other estate right holders of village Gajandli, but there is nothing on record either by way of pleading in the petition or by any evidence to show that the Petitioners were authorised by all the estate right holders to represent them and file a writ petition in that behalf. In such circumstances, this Court cannot accept the statement of the Petitioners in paragraph No. 2 that they are filing this writ petition on behalf of all the estate right holders.

2. The only contention of the Petitioners is that under the provisions of Section 8 of the Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974, two blocks of land situated in khasra Nos. 410 and 457 in the village shall be reserved for common purposes of the village and they cannot be allotted to any individual. u/s 8, the provision is that all land vested in the State Government

under the Act shall be utilized for the following purposes:

(a) an area not less than fifty per cent of the total area vested in the State Government u/s 3 of this Act for grazing and other common purposes of the inhabitants of an estate; and

(b) the remaining land for allotment to a landless person or a person whose holding is less than one acre to make his holding one acre under a scheme to be framed by the State Government by notification in the official Gazette. The allottee shall pay an amount at the rate of forty-eight times the land revenue and rates and cesses chargeable on the land allotted to him under the said scheme, either in lump sum or in six monthly instalments not exceeding four.

3. According to the Petitioners these two blocks of lands were pasture land and they ought to have been reserved under the provisions of Section 8 towards the 50% of the area to be reserved for common purposes. Reliance is also placed upon some Civil Court order passed before the merger of the area with the Himachal Pradesh State.

4. In the petition it is very clearly stated that the Petitioners are not challenging the vesting of the lands in the Government but they are challenging only the orders passed by the State Authorities allotting different parcels of land to various Respondents under the provisions of Nautor Land Rules, 1954, 1968 and the scheme of 1975. To the petition some of the orders are annexed as Annexures P/11 to P/30. The Petitioners have also annexed an order passed by the Revisional Authority under the Nautor Rules dismissing the revision petition filed by the Petitioners on 20-7-1984. The order of the Deputy Commissioner is annexed as Annexure P/33. It is only thereafter the present writ petition has been filed.

5. In the reply filed by the State Government and the State Authorities it is stated as follows:

7. In reply to para 7, it is submitted that the Estate right holders have the right of grazing in the waste land and that right has not been denied. Sufficient land has been left for grazing purposes even after the allotment. Although there is no such legal requirement yet overwhelmingly, more than 50% of the land has been left for common purposes. In addition to this there is forest land and the estate right holders have rights of grazing etc. in that land also. Even after this allotment about 8632 Bighas of land is left for grazing and other common purposes.

12. In reply to para 12, it is submitted that the land in question is a waste land, and allotments were made to different eligible persons under the H.P. Grant of Nautor Rules 1954, 1968 and H.P. Grant of Nautor land to landless person and other eligible persons under scheme 1975. The allotments of land have been made quite from the merger time to date.

13. In reply to para 13, it is submitted that the H.P. Village Common Lands

Vesting and Utilization Act, 1974 is not applicable to this land under reference. The land in question is a waste land. The land has been allotted under the various rules and scheme formulated for landless persons so that they may be able to earn their livelihood and much more than 50% of the land has been left for the purpose of grazing etc., though this is not the requirement in respect of wastement. About 8632 Bighas of land khasra No. 410-430 and 8202 Bighas in khasra No. 457 is still available for grazing purposes and only 1007 Bighas of land has been allotted to different persons as Nautor/Under landless scheme which is just 1/8 of the total land. It is also submitted that the order of grant of 28 persons have been cancelled by the Deputy Commissioner. Out of these 28 persons whose grant has been cancelled-eight persons, namely: (1) Sh. Bindu (2) Salish Chand (3) Jagru (4) Smt. Sharda W/o Harish Chand (5) Jai Lal (6) Surjan Singh (7) Harnam Lal and (8) Sh. Balak Ram have filed writ petitions in this Hon'ble High Court. The writ petitions have been admitted by the Hon'ble High Court. All these persons are Respondents in this writ petition also. In case the grant cancelled by the Deputy Commissioner, Shimla is also taken into account, the figure of waste land is bound to increase.

6. It is also seen from the replies of the other Respondents that some grants under the Nautor Rules were made even prior to 1975 and some of them were made after 1975. It is also brought to our notice by some of the Respondents that the land was described as "Banzar Kadim" in the mutation mauza "Hadvast" No. 163. Therefore, from Annexure R-12-A it is seen that the mutation was entered as early as on 16-2-1978. There is no explanation on the part of the Petitioners as to why they came to the Court only in 1985 against those grants. That apart, it is very clear from Section 8 of the H.P. Village Common Lands Vesting and Utilisation Act, 1974 that the reservation of an area for common purposes of not less than 50% of the total area vested in the State Government need not be in one block of land. It can be in different blocks. We cannot accept the contention of the Petitioners that it should always be in one block of land in one place. The section does not contemplate any such reservation.

7. It is also pointed out by the State Government that the land in question did not vest in the Government under the provisions of H.P. Village Common Lands Vesting and Utilization Act, 1974. It is stated that it is a waste land and therefore it did not vest under those provisions. If that is so, the Petitioners cannot at all have any grievance for allotment of land under the Nautor Rules. We are unable to accept the contention of the Petitioners that the land is pasture land and the land vested in the Government under the provisions of Act No. 18 of 1974. That aspect of the matter has not been established by the Petitioners.

8. It is also seen from Annexure P/33 that the only contention urged before the Deputy Commissioner was that there was an encroachment by one of the allottees on the Government land. No other contention seemed to have been argued before the Deputy Commissioner in the revision petition.

9. In view of the findings given above, we do not find any merit whatsoever in

this writ petition and it is dismissed. No costs.

10. Interim orders, if any, passed in this writ petition are vacated.