
(2011) 02 SHI CK 0015
In the High Court Of Himachal Pradesh
Case No : CWP No. 7638 of 2010

Ram Singh

APPELLANT

Vs

State of H.P. and Another

RESPONDENT

Date of Decision : 28-02-2011

Acts Referred:

Citation : (2011) 02 SHI CK 0015

Hon'ble Judges : Kurian Joseph, C.J;Sanjay Karol, J

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—The Petitioners, in these cases, are aggrieved since steps have been taken to evict them. On 6.12.2010, this Court passed the following order:

There will be a direction to the second Respondent to file a short reply as to what are the particulars of alleged encroachment, the extent thereof and whether the encroachment actually causes any hindrance in the traffic or for pedestrians. The affidavit shall be filed within three weeks from today. In the meanwhile, there will be a stay of eviction for a period of one month. Post on 5.1.2011 along with CWP No. 7638 of 2010.

2. In the short reply filed by the Executive Engineer, Joginder Nagar, Division of the Public Works Department, it is stated that the Petitioners are encroachers and they have encroached upon the government land and have constructed "khokhas" in the encroached land. The Department initiated due process by filing a petition under the Public Premises (Eviction and Rent Recovery) Act and pursuant to order passed in such proceedings only, steps have been taken to evict the Petitioners. It is also submitted that the appeals filed by the Petitioners have also been dismissed. In the affidavit, it is further stated that the above said construction is situated at the exit point of bus stand Joginder Nagar on the left side of J.N.S.G. road, which is hampering with the smooth flow of the traffic on road in the Bazaar and also the traffic and pedestrians entering and leaving bus stand, which may prove fatal.

3. In view of the above factual position, we do not find that it will be proper for this Court to interfere in this matter. The competent Authorities have gone into the matter and they have taken the required action in the larger public interest only. According to the Petitioners, it is the matter of their livelihood. May be so. It is for the Petitioner to approach the Deputy Commissioner, Mandi seeking appropriate rehabilitation, in which case, the matter will be duly considered by the Deputy Commissioner on facts and subject to availability of space, where there may not be any hindrance to the traffic or the pedestrians, and steps may be taken to rehabilitate the Petitioners subject to the rules and the conditions in the rules with regard to licence fee and rent etc.

4. The Petitioners have also contended that the PWD has taken the steps only in respect of small "khokhas", like that of the Petitioners and several other encroachers have been left out. Since the steps now taken by the PWD are only to smoothen the traffic around the premises of Joginder Nagar Bus stand, there will be a direction to Deputy Commissioner Mandi and Executive Engineer, HPPWD, Joginder Nagar Division to file affidavits as to the number of encroachments within 500 meters of Joginder Nagar Bus stand on all sides and what are the steps taken by them for evicting such encroachers. Such affidavits shall be filed by the Deputy Commissioner, Mandi and Executive Engineer, Joginder Nagar, HPPWD in CWP No. 7638 of 2010 within a period of two months from today. Post the said writ petition on 2.5.2011 for the perusal of the affidavits of the Deputy Commissioner and Executive Engineer. All the writ petitions are, otherwise, disposed of.

Copy Dasti to the Learned Advocate General for communication to the Deputy Commissioner, Mandi and Executive Engineer, Joginder Nagar, HPPWD.