
(2012) 01 SHI CK 0100
In the High Court Of Himachal Pradesh
Case No : CWP No. 7607 of 2010-I

Shri. D.R. Satia

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 13-01-2012

Acts Referred:

Citation : (2012) 01 SHI CK 0100

Hon'ble Judges : Sanjay Karol, J;Deepak Gupta, J

Bench : Division Bench

Judgement

Deepak Gupta, J.—By means of this petition, the petitioner contends that the link road starting from Kaleston to Bharari leading to Sethi Niwas has been constructed on forest land without obtaining permission for the authorities under the Forest Conservation Act. His grievance is that the land was diverted from non forest trees without requisite permission and therefore the petitioner prays that an inquiry be got conducted and proceedings be initiated against the Officials of Municipal Corporation and Forest Department. The petitioner alleges that the road was constructed at the behest of certain influential persons including Councilor of Municipal Corporation. It is not disputed before us that this road actually passes through forest land. The case of the respondents is that previously also a path existed on the spot and that this path was just maintained and widened at certain places. Admittedly no permission under the Forest Conservation Act was sought.

2. According to the respondents this path was maintained/widened sometime in the year 2004. The present writ petition was filed in the year 2010 and we find from the Annexures attached with the petition that the first complaint was addressed by the petitioner in this behalf only some time in the year 2009, when he raised question how this road was being constructed by the Municipal Corporation. This path was declared to be a street by notification dated 6.12.2004. It is not disputed that even prior to the issuance of this notification Gair Mumkin Rasta/path existed on the forest land. No doubt, the width of the

path was one meter only. It is also apparent that permission under the various acts as required were not taken and proper procedure was not followed. However we are dealing here with the case where the path was constructed as far as in the year 2004 or latest by 2005 and by the time this petition was filed, the construction was totally complete as is apparent from the photographs attached by the petitioner himself. We are now in the year 2012 and at this stage we would not like to reopen this matter where the path` has already been constructed.

3. We however, make it clear that this judgment does not in any way means that the Municipal corporation and other authorities are exempted from taking permission under the various provisions of the Forest Conservation Laws while constructing such paths. Though, we have declined to take any action in this matter, we may make it clear that in future if any such violation comes to our notice, we shall take strict action against the officials.

4. With the aforesaid observation, present petition is disposed of, so also the pending application(s), if any.