IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.3939 of 2024
Date of Decision: 12.10.2026

Bali Ram

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

Coram
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting?

For the Petitioner: Mr. Sahil Malhotra, Advocate.

For the Respondents: Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General and Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General.

Sandeep Sharma, J. *(Oral)*

Precisely, the grouse of the petitioner as has been highlighted in the petition and further canvassed by Mr. Sahil Malhotra, learned counsel representing the petitioner is that despite there being utilization of land of the petitioner for construction of road i.e. road No. 4/900 to 4/945 from Lani to Borar in Tehsil Shillai, District Sirmaur, neither steps are being taken for acquisition of land nor petitioner has been paid compensation till date.

2. Pursuant to notices issued in the instant proceedings, respondents have filed their reply, wherein factum with regard to use of land for construction of afore road, has not been disputed, however, an attempt has been made to refute the claim of the petitioner on the ground

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that at the time of acquisition of land, petitioner was not the land owner, rather his name came to be incorporated in jamabandi for the land in question in the year 2023. Besides above, it is further stated in the reply that brother of the petitioner had issued NOC for construction of road on 15.6.2007, as such, the petitioner is not entitled to compensation.

3. Brief facts of the case as emerge from the pleadings and other material adduced on record by respective parties are that the petitioner is co owner in possession of land comprising khata khatauni No. 3/8, khasra Nos. 776, 844, 847, 848, 959, 979, 1020, 1053, 1083, and 809 etc., situate at Mohal Borar, Patwar Circle Borar, Sub Tehsil Ronhaat, Tehsil Shillai, District Sirmaur as per jamabandi for the year 2015-16, measuring about 6 bighas. Sister of the petitioner had given land to the petitioner out of her own share for which, mutation No. 1102 dated 2.5.2023 was registered/recorded. Besides above copy of jamabandi for the year 2015-16 has been placed on record as Annexure P-1, perusal whereof reveals that petitioner herein has share in the land described hereinabove.

4. It is not in dispute, rather stands admitted in the reply filed by the respondents that land described hereinabove came to be used for construction of road from Lani to Borar in the year 2008 and since then, local residents of the area have been using the same. Since petitioner is owner of the land used for construction, he repeatedly requested the

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respondents to take steps for acquisition of land and pay compensation, but his prayer has been rejected on two grounds: (i) Brother of the petitioner had given NOC for the use of the land for construction of the road and (ii) At the time of acquisition of land, petitioner was not the land owner.

5. Having carefully perused material adduced on record, both the objections are not sustainable. No doubt, brother of the petitioner, namely Mr. Tulsi Ram is co owner, but certainly he had no right and could not have furnished NOC, if any, for the construction of road through land detailed hereinabove, which is owned by number of co-owners including the petitioner. Aforesaid Mr. Tulsi Ram, at best, could have given no objection certificate for the land falling in his share, but certainly he had no authority, whatsoever, to furnish NOC/undertaking on behalf of other co owners.

6. Secondly, this Court finds that mother of the petitioner, namely Jaina, widow of Sadia passed away on 8.5.2005, whereafter petitioner being one of the legal heirs of deceased Smt. Jaina also became entitled to the share in the property. Though after death of Smt. Jaina, mutation came to be attested in favour of other legal heirs, but inadvertently name of the petitioner was left out, which fact subsequently came to be clarified by Patwari of the area concerned dated 18.5.2026

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(Annexure P-9, wherein he has categorically stated that the petitioner namely Mr. Bali Ram is also entitled to equal share of the land left behind by Sadia along with his brother and sisters, but inadvertently, at the time of mutation carried out in the year 2009, i.e. mutation No. 890, his name could not be included.

7. Since it is apparent from the pleadings and other material adduced on record, which has been otherwise not rebutted in the reply filed by respondents, that at the time of acquisition of land, petitioner was one of the co-sharers in the land, coupled with the fact that brother of the petitioner had no authority, whatsoever, to furnish affidavit/undertaking on behalf of other co-owners, this Court is persuaded to consider prayer of the petitioner inasmuch as issuing direction to the respondents to consider and decide the case of the petitioner afresh, considering him to be one of the co owners in the land, which ultimately came to be used for construction of road named hereinabove.

8. Consequently, this Court without going into the merits of the case deems it fit to dispose of the same with the direction to respondent No. 3 to initiate the process for acquisition of land after getting it demarcated from the competent authority and thereafter adequate compensation in accordance with law be awarded to the petitioner. Needless to say, question of limitation otherwise sought to be raised has been already decided by this

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Court in catena of cases. While doing the needful, respondent authority shall take note of judgment passed by this Court in CWP No. 4256 of 2024 titled as **Chhajju Ram v. State of Himachal Pradesh and Ors.**, decided on 29.10.2024, wherein question with regard to delay as well as entitlement of the petitioner for compensation qua his land used for construction of road has been elaborately dealt with on the basis of various judgments passed by the Hon'ble Apex Court. Since petitioner has been fighting for his rightful claim for so long, this court hopes and trusts that authority concerned would do the needful expeditiously, preferably within two months. In the aforesaid terms, present petition is disposed of along with pending applications, if any.

October 12, 2026 **(Sandeep Sharma),**
(manjit) **Judge**

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