

23.9.2019 Present: Mr. K.D. Sood, Sr. Advocate, with Mr. Rajnish K. Lal, Advocate, for the appellant.

Mr. Dinesh Thakur, Additional Advocate General with Ms. Seema Sharma, Mr. Amit Kumar Dhumal, Ms.Divya Sood, Deputy Advocate Generals and Mr. Sunny Dhatwalia, Assistant Advocate General, for the respondent.

The basic contention of learned counsel for the appellant is that the judgments and decrees passed by both the learned Courts below are not sustainable in law as the learned Courts below have erred in not appreciating that pursuant to the amendment carried out in Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974, in the year 2001, with retrospective effect, the Government had decided to return the *shamlat* land which remained personal possession of the proprietors and as the suit land was also *shamlat* land, which was in the personal possession of the appellant, therefore, he was entitled for return of the same in terms of the said amendment.

Learned Additional Advocate General in response, has drawn the attention of this Court to the findings returned by learned First Appellate Court in para 15 of the judgment passed by the learned First Appellate

Court and by referring to the adjudication so made by the learned First Appellate Court, he has argued that this issue cannot be raised by the appellant in the present appeal.

Be that as it may, as the amendment carried out in Himachal Pradesh Village Common Lands Vesting and Utilization Act, 1974, in the year 2001, is not in dispute, therefore, before proceeding further, as prayed for, the appellant is permitted to move an appropriate application in terms of 2001 Act before the Authority concerned, who shall decide the application/ representation, made by the appellant, in accordance with law, completely uninfluenced by the factum of the pendency of the present appeal before this Court and the adjudications made against the present appellant by the learned Courts below, which are subject matter of the present appeal. In case any such application/ representation is filed by the appellant, within four weeks from today, then the Authority concerned shall pass appropriate orders upon the same in accordance with law after hearing the appellant as also the other stake holders, within a period of three months from the date of receipt of the application.

As jointly prayed for, this appeal be listed for

consideration after four months. Released as a part heard  
matter.

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**(Ajay Mohan Goel)**  
**Judge**

23<sup>rd</sup> September, 2019  
(*Rishi*)