



CWP No.6542/2011-G

12.03.2013 Present: Mr. Navlesh Verma, counsel for the petitioner.  
Mr. R.S. Verma, Additional Advocate General, for respondents No.1 to 3.  
Mr. Ajit Saklani, counsel for respondent No.4.  
Mr. Lalit Sehgal, vice Mr. Peeyush Verma, counsel for respondents No.7 and 8.

In this petition, petitioner has raised an important question with regard to the powers of the Sub Divisional Magistrate to direct arrest of a person, under the provisions of Section 107/151 of the Code of Criminal Procedure.

2. The Officers/officials of the State have been arrayed as party-respondents in their private capacity, since they have allegedly infringed the petitioner's liberty. I find that these respondents have not filed detailed reply. Opportunity to do so is again afforded to them. If so advised, needful be positively done within a period of three weeks from today. Rejoinder, if any, within two weeks thereafter.

3. Noticeably, respondent No.6 is ex-parte as he has chosen not to appear. He is employed with respondent No.1. As such, the State shall inform the said respondent about the pendency of the present petition as also the next date of hearing.

4. Petitioner filed three complaints (Annexures P-3, P-4 and P-5) with the Tehsildar, Deputy Commissioner (Shimla) and SDM (Rohru), alleging that private respondents



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No.7 and 8 have encroached upon approximately 60 bighas of Government forest land. Significantly this aspect has not been specifically dealt with by the State in its reply. According to the petitioner, his liberty was infringed by the officials of the State on the asking of these private respondents.

5. The Principal Secretary (Forest) and the Principal Secretary (Revenue) to the Government of Himachal Pradesh are impleaded as party-respondents No.9 and 10, respectively. Registry to make necessary corrections in the Memo of Parties in accordance with Rules. The said respondents are directed to look into the complaints filed by the petitioner, get the position verified at the ground level and submit a detailed report. Needless to add, all concerned, including the petitioner and the private respondents No.7 and 8, shall be associated in this process. Report shall positively be submitted within a period of six weeks from today.

6. Also, on the next date of hearing, respondents No.4 and 5 shall personally remain present in the Court. Record of proceedings under Section 107/151 of the Code of Criminal Procedure be also made available on the next date.

List on 23.5.2013.

Copy dasti.

March 12, 2013<sub>(sd)</sub>

( Sanjay Karol ), J.