

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****CWP No. 3890 of 2014****Decided on: 25.11.2025**

Shri Nathu Ram and others

... Petitioners

Versus

State of Himachal Pradesh and others

... Respondents

Coram***Hon'ble Mr. Justice Ajay Mohan Goel, Judge.*****Whether approved for reporting?¹**

For the petitioners : Mr. R.K. Bawa, Senior Advocate with
Mr. Ajay Kumar Sharma, Advocate.

For the respondents : Mr. Pushpender Jaswal, Addl. AG for
respondents-State.

: Mr. Raju Ram Rahi, Advocate for
respondents No. 3(a) to 3(d), 4 to 8
and 10.

Ajay Mohan Goel, Judge [Oral]

By way of this writ petition, the petitioners have *inter alia*
prayed for following reliefs:-

*“i) To set aside and quash orders, dated 23.04.2014 passed
by the learned Divisional Commissioner, Mandi, incase NO.
38/2007 (old) and 673/2009 (new) as contained at Annexure
P-7 (supra).”*

3. I have heard learned Senior Counsel for the petitioners
as well as the learned Counsel for the private respondents and have

¹ Whether reporters of the local papers may be allowed to see the judgment?



also carefully gone through the impugned orders as well as the pleadings and documents appended therewith.

3. Brief facts necessary for the adjudication of this petition are that the petitioners alongwith others preferred a revision petition under Section 54 of the H.P. Holdings (Consolidations and Prevention of Fragmentation) Act, 1971 (hereinafter to be referred as 'the 1971 Act' for short), on the ground that their demand for allotment of 198-4 Kanals of land in consolidation was not fulfilled and there was a deficiency of 23-19 kanals and the same be made good. In terms of order dated 18.09.2002, Annexure P-1, this revision petition was allowed and the matter was remanded back to the Consolidation Officer, Hamirpur, with the direction that he will re-check the entire record of the village and decide the objections of the applicants on merit after hearing the necessary parties. After passing of this order, the Consolidation Officer passed order dated 22.01.2003 (Annexure P-3) and rejected the application of the present petitioners. Feeling aggrieved, they preferred an appeal, which was decided on 26.03.2004 by the Settlement Officer vide Annexure P-2. In terms of the appellate order, the appeal was allowed and the Consolidation Officer, Hamirpur, was directed by way of remand to look into the grievance of the applicants by taking stalk of the spot situation itself. Thereafter, the remand was allowed by the Officer concerned in terms



of order dated 02.08.2004 (Annexure P-4) and the appeal filed against the same by the aggrieved party was decided in terms of Annexure P-5 on 05.09.2005, in terms whereof, the appeal was dismissed and the order passed by the Authority dated 03.08.2004 was upheld. Further feeling aggrieved, the appellants therein, i.e. the private respondents herein, again preferred an appeal which was also dismissed by the Appellate Authority vide Annexure P-6, dated 26.06.2006 and the subsequent proceedings filed against this order filed under Section 54 of the 1971 Act were allowed by the learned Divisional Commissioner, Mandi, in terms of the impugned order.

4. Learned Senior Counsel for the petitioners has taken the Court through all these orders, including the impugned order and submitted that after the remand and the spot visit, the Consolidation Officer allowed the remand by passing a detailed order which was substantiated by the facts as they existed on ground. He submitted that this order was upheld subsequently also by the Authorities and the learned Divisional Commissioner has arbitrarily interfered with the same in exercise of powers under Section 54 of the Act without appreciating that as there was nothing incorrect with the orders under challenge, there was no occasion for the learned Divisional Commissioner to have interfered therewith. Learned Senior Counsel submitted that another perversity which is writ large in the order



passed by the learned Divisional Commissioner is that Authority has rather than deciding the proceedings under Section 54 of the Act, by taking into consideration the orders under challenge, over-stepped his jurisdiction and gone into the filing of the earlier proceedings under Section 54 of the Act by the present petitioners which was not under challenge before it. Learned Senior Court thus submitted that all this renders the order passed by the learned Divisional Commissioner to be bad in law.

5. On the other hand, learned Counsel for the private respondents has supported the order passed by the learned Divisional Commissioner by submitting that as grave illegality was committed post remand by the Consolidation Officer as well as other Authorities in exercise of appellate powers and further as Annexure P-6, in terms whereof the appeal was decided by the Appellate Authority, was a completely non-speaking order, the same was rightly interfered with by the learned Divisional Commissioner and there was no occasion for this Court to interfere with the same. He alternatively submitted that if the order passed by the learned Divisional Commissioner is to be interfered with, then the order passed by the Appellate Authority in terms of Annexure P-6, being a non-speaking order, is also liable to be quashed and set aside.



6. Having heard learned Counsel for the parties and having carefully gone through the pleadings as well as documents appended therewith, including the impugned order, this Court is of the considered view that both Annexure P-6, i.e. the Order passed by the Appellate Authority under Section 30 (4) of 1971 Act as well as the order passed by the learned Divisional Commissioner under Section 54 of the 1971 Act, dated 23.04.2014 (Annexure P-7), are not sustainable in the eyes of law. The order passed by the Appellate Authority dated 29.06.2006 indeed is a non-speaking order. A perusal thereof demonstrates that there is no reference in the order of the grounds, on which, the earlier orders were agitated by the aggrieved party. There is no reasoning given in the impugned order as to why the Appellate Authority did not agree with the contentions raised before it by the aggrieved party and has dismissed the appeal in a mundane manner without appreciating that in the course of adjudication of the appeal. The Appellate Authority was bound to refer to the grounds of appeal, respective contentions of the appellant as well as the opposite party thereto and thereafter, on the basis of said contentions, independent findings were to be returned in the appeal, either in support of the order challenged or against it. Therefore, this Court has no hesitation in holding that the order



passed by the Appellate Authority dated 29.06.2006, is liable to be set aside, being a non-speaking order.

7. As far as the order passed by the learned Divisional Commissioner is concerned, the same is also not sustainable in law for the reason that while deciding this petition under Section 54 of the Act, learned Divisional Commissioner has erred in not appreciating that it was having no power to question the wisdom of the present petitioners in having filed the earlier proceedings under Section 54 of the Act, may be belatedly, because the order which was passed in those proceedings in terms of Annexure P-1, having attained finality, could not have been subsequently gone into or commented upon either directly or indirectly by the learned Divisional Commissioner. In fact, as the very foundation of the order passed by the learned Divisional Commissioner appears to be the belated proceedings initiated earlier by the present petitioners under Section 54 of the 1971 Act, his order is also not sustainable in law and is liable to be quashed and set aside on this count alone. Learned Divisional Commissioner erred in not appreciating that under Section 54 of the Act, it was to confine itself to the order(s) under challenge and it could not have gone into an order that was passed under Section 54 of the Act by an Authority, which was exercising the same power as was being exercised by the learned



Divisional Commissioner under Section 54 of the Act. The learned Divisional Commissioner was not exercising any review powers.

8. Thus, in light of the above discussion, this petition is allowed and order passed by learned Division Commissioner dated 23.04.2014 (Annexure P-7) is quashed and set aside. However, as this Court has held that Annexure P-6, i.e. the order passed by the Appellate Authority dated 29.06.2006, is also bad in law, therefore, the same is also quashed and set aside and the matter is remanded back to the Appellate Authority to decide the appeal afresh under Section 30(4) of the 1971 Act, after hearing both the parties and by passing a detailed order.

Learned Counsel for the parties to appear before learned Appellate Authority on 15.12.2025 and an endeavour be made by the Appellate Authority to decide the appeal within three months from today on the basis of the pleadings already on record. Pending miscellaneous applications, if any, also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

November 25, 2025
(narender)