

CWP No. 1093 of 2016 a/w CWPIL No. 17 of 2014, CWPIL Nos. 178 & 309 of 2017, CWPIL No.19 of 2018.

CWP No.7341 of 2011.

CWPs No. 1051 of 2014.

CWP Nos. 5 of 2016 a/w 539, 1301, 1434, 1547, 1548, 1940, 2046, 2119, 2120, 2121, 2140, 2296, 2477, 2638, 2639, 2652, 2711, 2720, 2750, 2779, 2786, 2787, 2805, 2826, 2830, 2834, 2836, 2842, 2843, 2844, 2845, 2850, 2851, 2852, 2853, 2854, 2866, 2867, 2868, 2869, 2892, 2895, 2910, 2911, 2913, 2914, 2916, 2921, 2922, 2960, 2961, 2985, 2986, 2997, 2998, 3001, 3002, 3003, 3012, 3039, 3085, 3088 to 3090, 3092, 3118, 3120, 3125, 3144, 3154, 3161, 3190, 3212, 3213, 3253, 3298 of 2016

CWP Nos.15 of 2017 a/w 82, 91, 92, 96, 116, 158, 159, 173, 178, 179, 180, 181, 189, 190, 192, 195, 221, 222, 223, 228, 241, 242, 255, 262, 271, 272, 281, 287, 288, 299, 309, 314, 330, 336, 337, 338, 345, 349, 352, 360, 369, 391, 412, 415, 418, 419, 427, 428, 464, 474, 478, 497, 519, 520, 522, 536, 564, 623, 668, 669, 681, 684, 685, 693, 775, 778, 811, 844, 870, 877, 894, 935, 1017, 1038, 1097, 1122, 1128, 1341, 1348, 1620, 1795, 1801, 1947, 1973, 1974, 1989, 1990, 2017, 2046, 2070, 2071, 2072, 2073, 2133, 2195, 2517, 2605, 2606, 2607, 2446, 2447, 2718, 2748, 2750, 2922, 2917 of 2017.

CWP Nos.34 of 2018 a/w 35, 37, 53, 57, 58, 91, 99, 146, 200, 203, 204, 206, 207, 208, 227, 269, 341 to 345, 398, 399, 400, 411, 412, 429, 503, 510, 514 & 621 of 2018.

CMPMOs No. 503 & 504 of 2016 and COPC No. 161 of 2016.

11.04.2018 Present:

M/s. G.D. Verma, Satyen Vaidya, Sanjeev Bhushan and B.S. Chauhan, B.P. Sharma, O.P. Sharma, Sr. Advocates, with M/s Abhimanyu Rathore, Vinod Thakur, Guarav Gautam, V.D. Khidtta, Rajnish K. Lal., S.D. Gill, Vikrant Thakur, Naveen K. Dass, H.S. Rana, L.S. Mehta, P.P. Chauhan, G.R. Palsra, Nitin Thakur, Neel Kamal Sood, Munish Datwalia, Abhilasha Kaundal, Vivek Sharma, Purshotam Chaudhary, Vinod Thakur, Vandana Misra, Tek Chand Sharma, Mohan Singh, Anil Chauhan, B.N. Mehta, Surender Verma, Arun Kumar, Rohit Chauhan, Karan Singh Kanwar, Sunil Chauhan, B.C. Verma, Jeevesh Sharma, Manohar Lal Sharma, Vinod K. Thakur, B.N. Sharma, Vishal Panwar, Ajay Kumar Dhiman, Neel Kamal Sharma, Sunil Chauhan, Digvijay Singh, K.B.Khajuria, Nitin Khanna, Sunil Kumar, Maan Singh, Naveen K. Bhardwaj, Vinod Kumar Thakur, Jagdish Thakur, Tara Singh Chauhan, Sunil Mohan Goel, Surinder

Kumar Saklani, D.S. Kainthla, Mukesh Kumar, Mukul Sood, Het Ram Thakur, Vivek Darhel, Ajay Chauhan, Devender Chauhan Jaita, H.S. Rangra, Sanjay Sharma, G.K. Nadda, R.S. Chandel, J.L. Bhardwaj, Y.P.Sood, and Mr.B.N.Sharma, Advocates, for the petitioner(s) in the respective petitions.

Mr.Ashok Sharma, Advocate General, with Mr. Adarsh Sharma, Ms.Rita Goswami, Mr.Nand Lal Thakur, Additional Advocate Generals & Mr.J.K.Verma, Deputy Advocate General, for the respondents-State.

Mr.Sandeep Sharma, Advocate, for respondents No.10 and 11 in CWPIl No. 17 of 2014.

Mr. Sanjeev Bhushan, Sr. Advocate, with Ms. Abhilasha Kaundal, Advocate, for the applicants in CMP No. 6359 of 2016 in CWPIl No. 17 of 2014.

Mr. Dheeraj K. Vashisht, Advocate, for the applicants in CMP No. 9153 of 2016 in CWPIl No. 17 of 2014.

Mr. Vikrant Thakur, Advocate, for the applicants in CMP No. 10019 of 2016 in CWPIl No. 17 of 2014.

Mr.Aman Sood, Advocate, in CWPIl No. 178 of 2017.

Affidavit dated 10.04.2018, filed by Sh.A.C.Sharma, Principal Chief Conservator of Forest (Forest Management) H.P., who is present in Court, is taken on record.

We notice that in Rohru Sub-Division, itself, at least 13 cases of encroachment over more than 100 bighas now stand identified. We have interacted with Sh.C.B.Tashildar, I.F.S., D.F.O. Rohru, Sh.Jangvir Singh Dulta, D.F.O. Chopal, Sh.M.D.Sharma, S.D.M. Theog, Sh.Nitin Patil, D.F.O. Theog and Sh.Narain Singh Verma, Tehsildar, Theog.

We were persuaded by Mr.Ashok Sharma, learned Advocate General, not to pass any orders constituting a Special Investigation Team (SIT) for removal of at least 13 such encroachers from forest land, with the assurance that the State itself would take adequate steps and measures in ensuring their

removal at the earliest and possibly within a period of two weeks from today.

We further notice that the Forest Department has filed applications for demarcation before the appropriate authorities, including the Deputy Commissioner, Shimla. We fail to understand that as to why such process stands adopted by the Forest Department, for if the encroachment is on the forest land, then where is the question of the same being got demarcated prior to the ejectment of the encroachers. If at all, any one has to move for demarcation, it has to be the encroacher claiming title over the land in question and not the Forest Department. As such, we clarify that it shall be open for the Forest Department to forthwith proceed with the process of ejectment, in accordance with law over the forest land, be it UPF/DPF/Forest or otherwise.

The officers, who are present in Court, are directed to file their personal affidavits, indicating the extent of encroachment of more than five bighas in their respective areas and the steps taken for removal of the encroachments.

Learned Advocate General invites our attention to the order dated 27.03.2018, passed by the Financial Commissioner (Appeals) Himachal Pradesh, Shimla, in CMP No.71/2018 (Rev.No.120/82), titled as *Shri Lok Pal Chauhan & others vs. The State of Himachal Pradesh & others*, copy whereof is taken on record.

We notice that the matter pertaining to the year 1987 stands remanded to the Deputy Commissioner, Shimla for decision, in accordance with law. At this stage, we refrain from making any observation or passing any further order save and except that we direct the Deputy Commissioner, Shimla to

positively decide the same within a period of ten days from today, even if, notices through special messengers are required to be served upon the parties, he shall do so. Outcome of said decision be made known to this Court on the next date of hearing.

List on 25.04.2018.

Copy dasti.

(Sanjay Karol),
Acting Chief Justice.

April 11, 2018
(Purohit)

(Tarlok Singh Chauhan),
Judge.