

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****RSA No.213/2025****Date of Decision: 26th November, 2025.**

Surinder Kumar

.....Appellant

Versus

State of HP and Anr.

.....Respondents

*Coram****The Hon'ble Mr. Justice Bipin Chander Negi, Judge.******Whether approved for reporting?¹***

For the Appellant: Mr. Virender Singh Rathore, Advocate.

For the Respondents: Nemo.

Bipin Chander Negi, Judge (oral).

Heard counsel for the appellant and perused the pleadings.

2. The encroachment proceedings were initiated against the present appellant by the respondents. Ejectment orders were passed by the Assistant Collector, Second Grade, Kangra at Dharamshala, District Kangra, HP on 28.04.2023.

3. Feeling aggrieved of the same, an appeal was preferred before the learned District Judge, Kangra at Dharamshala, HP. Since a question of title had not been raised by the present appellant during the encroachment proceedings, therefore, the First Appellate Court was of the view that the appeal preferred before the appellate authority by the present appellant was not maintainable.

4. Having perused the impugned judgments passed by the Assistant Collector, Second Grade, Kangra at Dharamshala and the impugned judgment passed by the First Appellate Court,



and on an examination of the same, in terms of the provisions of Section 163 of the HP Land Revenue Act, I see no reason to differ with the view taken by the First Appellate Court.

5. In view of the aforesaid, the present appellant is at liberty to proceed against the impugned order dated 28.04.2023, passed by the Learned Assistant Collector Grade-II, Kangra at Dharamshala, HP in Case No.5/NT/2022, titled State of HP Vs. Surender Kumar in the appropriate forum. Nothing said on merits by the First Appellate Court would preclude the appellate authority in taking a decision on merits. Time spent in pursuing the first appeal before the District Judge, Kangra at Dharamshala, District Kangra, HP, and in this Court in the present appeal, shall be appropriately dealt with in terms of Section 14 of the Limitation Act by the appellate authority before whom the appeal is to be preferred.

6. In view of the aforesaid terms, the present appeal is disposed of, so also the pending miscellaneous applications, if any.

(Bipin Chander Negi)
Judge

26th November, 2025
(Gaurav Rawat/TB)