

**Pradeep Kumar & Anr. Vs. State of H.P. & Ors.**

**CWP No.6088 of 2022**

04.07.2025 Present: Ms. Seema K. Guleria, Advocate, for the petitioners.

Mr. Pushpinder Jaswal, Additional Advocate General, for the respondents.

By way of this petition, the petitioners have prayed for the following reliefs:-

*“i. That the respondents may kindly be directed to immediately construct the retaining walls on the Rd. number 90-285 adjoining and parallel to khasra number 243/52 and Rd. No.585-650 adjoining and parallel to khasra No.92 of the petitioners and also construct proper drains on said roads in a time bound manner by issuance of Writ of Mandamus.*

*ii. That the respondents may kindly be directed to further proceed with the said work qua which they have already prepared the estimate for the construction of retaining walls and drains Chamola-Kangal-Matiyana Road by issuing a writ of mandamus.*

*iii. That the respondents may kindly be directed to repair the solar fencing so damaged due to felling of trees and the trees*

*be removed from the land of the petitioners.”*

Today, when the matter was taken up for consideration, learned counsel for the petitioners has reiterated that remedial measures are not being taken by the respondent-State and as a result thereof there is a perennial problem being faced by the petitioners as every time there is rain etc., his property is being damaged.

On the other hand, learned Additional Advocate General submitted that adequate steps to protect the property of the petitioners have already been taken and the petitioners cannot seek the protection of their property at public expenses.

Be that as it may, taking into consideration the allegations made in the writ petition, in terms whereof, at least 300 feet of the property of the petitioners is in peril on account of the acts or omission of the respondents, this Court is of the considered view that it would be in the interest of justice in case a Court Commissioner is appointed to

visit the area and thereafter, report as to whether there is any merit in the contention of the petitioners and if yes, then to what extent and what remedial measures are required to be taken to ensure that there is any damage to the property of the petitioners or any other persons similarly situated.

Mr.Vivek Negi, Advocate, who is present in the Court, was requested by the Court to visit the site as a Court Commissioner and he agreed to do the needful. Therefore, Mr. Vivek Negi, Advocate is hereby appointed as the Court Commissioner, who is called upon to visit the area in question after due intimation to the parties concerned and thereafter, furnish his report to the Court, intimating therein as to whether there is indeed any danger to the property of the petitioners and if yes, then what remedial measures are required to be taken.

In the course of carrying out of the Commission, learned Court Commissioner shall be assisted by Tehsildar concerned as well as by such

Officer not below the rank of Executive Engineer, who may be designated by Engineer-in-Chief, HPPWD. Let needful be done by the next date of hearing.

List on **25.08.2025**. The fee of learned Court Commissioner is assessed at Rs.35,000/- which shall be inclusive of expenses, except that the petitioners will be responsible for providing transportation to learned Court Commissioner. At the first instance, the fee shall be paid by the petitioners to learned Court Commissioner before the date fixed by him for the visit of the area concerned. Registry is directed to provide the entire record to learned Court Commissioner to execute the Commission as and when directed by him.

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

July 04, 2025  
(Rishi)