

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****CWP No.12992 of 2025****Decided on: 28.11.2025**

Dhian Singh and another	... Petitioners
Versus	
State of Himachal Pradesh & others	... Respondents

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

For the petitioners	:	Mr. Tek Chand, Advocate.
For the respondents	:	Mr. R.P. Singh, Deputy Advocate General.

Ajay Mohan Goel, Judge (Oral)

By way of this petition, the petitioner has, *inter alia*,
prayed for the following relief:-

"i. That an appropriate writ, order or direction may kindly be issued and the order dated 16.03.2012 passed by Ld. AC 1st Grade (Annexure P-4), order dated 27.06.2013 passed by the Ld. Sub Divisional Collector Bhoranj (Annexure P-5) and order dated 28.03.2025 passed by the Ld. Divisional Commissioner Mandi exercising the power of Hon'ble Financial Commissioner (Appeal) Shimla, H.P. (Annexure P-9) may kindly be quashed and set aside, in the interest of law and justice."

2, The petitioners herein are aggrieved by the order of eviction passed against them in the proceedings which were initiated

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



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under Section 163 of the H.P. Land Revenue Act which have attained finality as also the orders passed in appeal/ revision etc. filed by the petitioners against the first order of eviction passed by Assistant Collector, 1st Grade, Bhoranj, dated 16.03.2012.

3. Learned Counsel for the petitioners has drawn the attention of the Court to the reply filed by the petitioners to the initial proceedings initiated against them under Section 163 of the H.P. Land Revenue Act, copy whereof is has been placed on record alongwith CMP No.20952 of 2025, which application was allowed by this Court on 29.08.2025. By referring thereto, he submits that in the said reply stand of adverse possession was taken by the respondents, yet the Authority did not follow the procedure prescribed under Section 163 (3) of the H.P. Land Revenue Act and decided the case by not converting itself into a Civil Court which renders the orders passed by the Assistant Collector, 1st Grade to be bad in law. He submitted that this extremely important aspect of the matter was also ignored by the Appellate and Revisional Authorities, therefore, their orders are also bad in law.

4. Learned Deputy Advocate General submitted that in light of the fact that that there are concurrent findings that the petitioners have encroached upon the Government land, the orders



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under challenge call for no indulgence because it is not the case of the petitioners that findings returned to the effect that they have encroached upon the Government land are perverse findings. Accordingly, he prayed that as there is no merit in the present petition, the same be dismissed.

5. I have heard learned Counsel for the parties and have also carefully gone through the order under challenge as well as other pleadings on record.

6. It is a matter of record that in the proceedings which were initiated against the petitioners under Section 163 of the H.P. Land Revenue Act the petitioners took the defence of adverse possession. In Para-3 of the reply it was mentioned that the land in question was allotted to the grand-father of the respondents in the year 1968 and the land in question was in peaceful, uninterrupted and continuous possession of the respondents since the time of their ancestor. It was also mentioned in the reply that as question of time was involved, the Court was not having any jurisdiction.

7. Sub-section (3) of Section 163 of the H.P. Land Revenue Act provides that in proceedings initiated under Section 163 of the said Act if the plea of adverse possession is raised by a party, then the Court concerned, i.e. the Court of Assistant Collector, 1st Grade



has to convert itself into the Court of Civil Court and decide the matter accordingly. The appeal against the order passed by the Assistant Collector is also maintainable before the learned District Judge because the order passed by the Assistant Collector is treated as a decree.

8. In the present case, despite the fact that the petitioners took the stand of adverse possession in the reply filed to the proceedings initiated against them under Section 163 of the H.P. Land Revenue Act, the Authority concerned, i.e. A.C. 1st Grade did not convert itself into a Civil Court to decide the case. This renders the orders passed by the Authority bad in law. Both Appellate Authority as well as the Revisional Authority erred in not appreciating this extremely important aspect of the matter and therefore, their orders are also *per se* bad and not sustainable in the eyes of law.

9. Accordingly, in light of above observations this petition is allowed. The impugned orders are set aside. At this stage, learned Deputy Advocate General submits that as the petition has been allowed on technical grounds, the matter be remanded back to the Assistant Collector, 1st Grade, with the observation that he may proceed with the same from the stage of the reply having been filed



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by the petitioners to the eviction petition. Ordered accordingly.

10. With these observations, the petition stands disposed of. Interim order, if any, stands vacated. Pending miscellaneous application(s), if any also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

November 28, 2025
(Rishi)