



2025:HHC:34573

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IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 15922 of 2025

Decided on: 13.10.2025

Bheelo and others

... Petitioners

Versus

The State of H.P. and another

... Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting?¹

For the petitioner : Ms. Pallvi Sharma, Advocate vice Mr.
K.B. Khajuria, Advocate.

For the respondents : Mr. R.P. Singh, Deputy AG for
respondents No. 1 and 2.

Ajay Mohan Goel, Judge [Oral]

CMP No. 24657 of 2025

By way of this application, the applicant prays to place on record the documents appended therewith, which includes the copy of the reply filed to the proceedings under Section 163 of the H.P. Land Revenue Act. The application is allowed as prayed for and the documents appended therewith are ordered to be taken on record.

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2. Notice. Mr. R.P. Singh, learned Deputy Advocate General, accepts notice on behalf of the respondents.

3. In light of the controversy involved in this petition, the same is being disposed of at this stage itself.

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



4. The petitioner is aggrieved by the order of eviction passed against him under the provisions of the H.P. Land Revenue Act. The contention of the petitioner is that the order passed by the first Authority as well as the Appellate Authority are bad as both the authorities have erred in not appreciating that when the petitioner took the plea of adverse possession in the reply filed to the proceedings under Section 163 of the H.P. Land Revenue Act, then the Assistant Collector First Grade could have only heard the matter and that too after converting itself into a Civil Court. According to the petitioner, this was not done by the Authority and therefore, the impugned order is bad.

5. Having heard learned Counsel for the parties and having perused the impugned order, there appears to be merit in the present petition. The application which has been allowed by this Court today, is accompanied by the reply filed by the petitioner to the proceedings initiated under Section 163 of the H.P. Land Revenue Act. A perusal thereof demonstrates that a specific plea of adverse possession was taken in the reply filed by the respondent therein to the proceedings initiated under Section 163 of the H.P. Land Revenue Act, which reply is dated 30.09.2022. Section 163 (3) of the H.P. Land Revenue Act envisages that in the proceedings of eviction, when the respondent takes the plea of adverse possession, then the procedure prescribed under sub-Section 3 of the Act has to be followed, i.e. the



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matter has to be heard by the Assistant Collector First Grade and that too by converting itself into a Civil Court.

5. In this case, the order at the first instance was passed by the Assistant Collector, 2nd Grade, which order thus is void *ab initio*. As the appellate Authority also has passed the appellate order without appreciating this extremely important aspect of the matter, therefore, the order passed by the appellate Authority is also not sustainable in the eyes of law.

6. In light of above observations, obviously, as the impugned orders are not sustainable in the eyes of law, the same are quashed and set aside.

7. At this stage, learned Deputy Advocate General submits that as the petition is being allowed on technical grounds, the respondents be granted liberty to proceed against the petitioner from the stage, the reply was filed to the proceedings under Section 163 of the H.P. Land Revenue Act. The liberty as prayed for is granted.

The petition stands disposed of in above terms. Pending miscellaneous applications, if any, also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

October 13, 2025
(narender)