

ITEM NO.17 + 18 + 23

COURT NO.12

SECTION XIV

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 45933/2024

[Arising out of impugned final judgment and order dated 17-09-2024 in CWP No. 207/2018 passed by the High Court of Himachal Pradesh at Shimla]

NEETA RAM

Petitioner(s)

VERSUS

STATE OF HIMACHAL PRADESH &amp; ORS.

Respondent(s)

IA No. 262851/2024 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS, IA No. 262852/2024 - EXEMPTION FROM FILING O.T.

WITH

Diary No(s). 45931/2024 (XIV)  
FOR ADMISSION and I.R. and IA No.261561/2024-EXEMPTION FROM FILING O.T. and IA No.261560/2024-CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

Diary No(s). 45934/2024 (XIV)  
SLP(C) No. 26737/2024 (XIV)  
FOR ADMISSION

SLP(C) No. 27702/2024 (XIV)  
FOR ADMISSION and I.R. and IA No.268234/2024-EXEMPTION FROM FILING O.T.

SLP(C) No. 28289/2024 (XIV)  
FOR ADMISSION and IA No.274201/2024-EXEMPTION FROM FILING O.T.

Diary No(s). 58117/2024 (XIV)  
FOR ADMISSION  
IA No. 27865/2025 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS, IA No. 27866/2025 - EXEMPTION FROM FILING O.T.

with

SLP (C) Nos. 27695-27697/2024  
IA No. 268151/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT  
IA No. 268153/2024 - EXEMPTION FROM FILING O.T.

WITH

Diary No(s). 49527/2024 (XIV)

FOR PERMISSION TO FILE PETITION (SLP/TP/WP/..) ON IA 267612/2024  
FOR APPLICATION FOR SUBSTITUTION ON IA 267613/2024  
FOR SETTING ASIDE AN ABATEMENT ON IA 267615/2024  
FOR APPLICATION FOR CONDONATION OF DELAY IN FILING THE APPLICATION  
FOR SETTING ASIDE THE ABATEMENT ON IA 267616/2024  
IA No. 267616/2024 - APPLICATION FOR CONDONATION OF DELAY IN FILING  
THE APPLICATION FOR SETTING ASIDE THE ABATEMENT  
IA No. 267613/2024 - APPLICATION FOR SUBSTITUTION  
IA No. 267612/2024 - PERMISSION TO FILE PETITION (SLP/TP/WP/..)  
IA No. 267615/2024 - SETTING ASIDE AN ABATEMENT

SLP(C) No. 28350-28351/2024 (XIV)  
FOR EXEMPTION FROM FILING O.T. ON IA 275027/2024  
IA No. 275027/2024 - EXEMPTION FROM FILING O.T.

Diary No(s). 50426/2024 (XIV)  
IA No.288619/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT and IA No.288621/2024-EXEMPTION FROM FILING O.T. and IA  
No.288618/2024-CONDONATION OF DELAY IN REFILEING / CURING THE  
DEFECTS

SLP(C) No. 26826-26827/2024 (XIV)  
IA FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA  
259968/2024  
FOR EXEMPTION FROM FILING O.T. ON IA 259970/2024  
IA No. 259968/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT  
IA No. 259970/2024 - EXEMPTION FROM FILING O.T.

SLP(C) No. 28788-28789/2024 (XIV)  
IA FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA  
277510/2024  
FOR EXEMPTION FROM FILING O.T. ON IA 277511/2024  
IA No. 277510/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT  
IA No. 277511/2024 - EXEMPTION FROM FILING O.T.

SLP(C) No. 28482-28483/2024 (XIV)  
IA FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA  
276291/2024  
FOR EXEMPTION FROM FILING O.T. ON IA 276294/2024  
IA No. 276291/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT  
IA No. 276294/2024 - EXEMPTION FROM FILING O.T.

SLP(C) No. 27515/2024 (XIV)  
FOR EXEMPTION FROM FILING O.T. ON IA 266062/2024  
FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA  
266066/2024  
IA No. 266062/2024 - EXEMPTION FROM FILING O.T.  
IA No. 266066/2024 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES

SLP(C) No. 27808/2024 (XIV)  
 FOR EXEMPTION FROM FILING O.T. ON IA 269809/2024  
 IA No. 269809/2024 - EXEMPTION FROM FILING O.T.

SLP(C) No. 28817/2024 (XIV)  
 FOR EXEMPTION FROM FILING O.T. ON IA 278204/2024  
 IA No. 278204/2024 - EXEMPTION FROM FILING O.T.

SLP(C) No. 28010/2024 (XIV)  
 FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA  
 270635/2024  
 FOR EXEMPTION FROM FILING O.T. ON IA 270636/2024  
 FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA  
 275327/2024  
 FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 275328/2024  
 FOR EXEMPTION FROM FILING O.T. ON IA 275329/2024  
 IA No. 275328/2024 - APPROPRIATE ORDERS/DIRECTIONS  
 IA No. 270636/2024 - EXEMPTION FROM FILING O.T.  
 IA No. 275329/2024 - EXEMPTION FROM FILING O.T.  
 IA No. 270635/2024 - PERMISSION TO FILE ADDITIONAL  
 DOCUMENTS/FACTS/ANNEXURES  
 IA No. 275327/2024 - PERMISSION TO FILE ADDITIONAL  
 DOCUMENTS/FACTS/ANNEXURES

Diary No(s). 51830/2024 (XIV)  
 IA FOR CONDONATION OF DELAY IN FILING ON IA 268391/2024  
 FOR EXEMPTION FROM FILING O.T. ON IA 268392/2024  
 FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA  
 268393/2024  
 IA No. 268391/2024 - CONDONATION OF DELAY IN FILING  
 IA No. 268393/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED  
 JUDGMENT  
 IA No. 268392/2024 - EXEMPTION FROM FILING O.T.

SLP(C) No. 28157/2024 (XIV)  
 FOR ADMISSION

SLP(C) No. 27745/2024 (XIV)  
 FOR ADMISSION and I.R.

SLP(C) No. 28960/2024 (XIV)  
 FOR ADMISSION

SLP(C) No. 28952/2024 (XIV)  
 FOR EXEMPTION FROM FILING O.T. ON IA 279346/2024  
 IA No. 279346/2024 - EXEMPTION FROM FILING O.T.

SLP(C) No. 28504/2024 (XIV)  
 FOR EXEMPTION FROM FILING O.T. ON IA 276390/2024  
 IA No. 276390/2024 - EXEMPTION FROM FILING O.T.

SLP(C) No. 28984/2024 (XIV)  
 [FOR EXEMPTION FROM FILING O.T. ON IA 279661/2024

IA No. 279661/2024 - EXEMPTION FROM FILING O.T.

SLP(C) No. 28469/2024 (XIV)  
FOR ADMISSION and I.R.

SLP(C) No. 28942/2024 (XIV)  
FOR ADMISSION

SLP(C) No. 29165/2024 (XIV)  
FOR  
FOR EXEMPTION FROM FILING O.T. ON IA 281894/2024  
IA No. 281894/2024 - EXEMPTION FROM FILING O.T.

Diary No(s). 55382/2024 (XIV)  
IA FOR CONDONATION OF DELAY IN FILING ON IA 279214/2024  
IA No. 279214/2024 - CONDONATION OF DELAY IN FILING

SLP(C) No. 1693/2025 (XIV)

Diary No(s). 58477/2024 (XIV)  
IA No.293561/2024-CONDONATION OF DELAY IN FILING and IA  
No.293563/2024-EXEMPTION FROM FILING O.T.

SLP(C) No. 2117/2025 (XIV)  
FOR ADMISSION  
IA No. 20040/2025 - EXEMPTION FROM FILING O.T.

Diary No(s). 59194/2024 (XIV)  
IA No. 16779/2025 - CONDONATION OF DELAY IN FILING  
IA No. 16780/2025 - EXEMPTION FROM FILING O.T.

with

MISCELLANEOUS APPLICATION Diary No(s). 4374/2025 in SLP(C) No.  
27238/2024  
IA No. 21893/2025 - APPROPRIATE ORDERS/DIRECTIONS  
IA No. 46209/2025 - CONDONATION OF DELAY IN FILING

Date : 27-02-2025 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SUDHANSHU DHULIA  
HON'BLE MR. JUSTICE K. VINOD CHANDRAN

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parties

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Ms. Jubli Momalia, Adv.  
Mrs. Geetha Kovilan, AOR

UPON hearing the counsel the Court made the following  
O R D E R

In a matter relating to encroachment of forest land, some of the petitioners had approached this Court by means of Special Leave Petitions, challenging the order of the High Court, which has upheld the order passed by the Divisional Collector ordering their eviction from the forest land.

Vide order dated 28.11.2024, this Court\* of which one of us (Sudhanshu Dhulia, J.) was a member had dismissed a Special Leave Petition, being SLP (C) No. 27238/2024 [Guman Singh Vs. State of Himachal Pradesh & Ors.]. The order dated 28.11.2024 is reproduced as under :-

*"Heard learned counsel for the petitioner. The petitioner had been found to have encroached the forest land and consequently an order has been passed by the Forest Authorities for evicting the petitioner from the said forest land. This order was challenged by the petitioner before the Divisional Commissioner. The Divisional Commissioner passed an order on 30.11.2023 dismissing petitioner's appeal. The same was challenged by the petitioner before the High Court of Himachal Pradesh by filing a writ petition, which was dismissed on 03.10.2024 and the High Court came to a finding that the demarcation conducted by the Forest Kanungo has never been challenged by the petitioner and as per that demarcation, the land on which the*

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\* (Bench of Sudhanshu Dhulia, J., and Ahsanuddin Amanullah, J.)

*petitioner has encroached, is a part of the reserved forest area. The petitioner has not been*

*able to give any valid proof about his ownership or possession on the said land. Under these circumstances, we find absolutely no ground to interfere with the well considered order of the High Court, in exercise of our jurisdiction under Article 136 of the Constitution of India. The present petition is, accordingly, dismissed along with pending application(s), if any."*

All the same, while dismissing the above petition, what was not brought to the notice of this Court the earlier orders which had been passed by a different Coordinate Bench of this Court regarding the same issue. Reference is made to a similar matter, being SLP (C) No. 19370/2024 [Tek Singh Vs. State of Himachal Pradesh], where a Coordinate Bench of this Court dismissed the said petition. Order dated 30.08.2024 is reproduced as under :-

*"We are not inclined to interfere with the impugned judgment which relates to forest land and, hence, the special leave petition is dismissed. However, at the request of the learned counsel for the petitioner, time for vacating the premises in question is extended till 15.10.2024, subject to the petitioner, Tek Singh, filing an undertaking in this Court that he will vacate the land on or before the said date.*

*In case of any violation of the aforesaid condition, the respondent, State of Himachal*

*Pradesh, may file a contempt petition before the High Court of Himachal Pradesh. Pending application(s), if any, shall stand disposed of."*

Thereafter, in SLP (C) No. 22556/2024 [Krishna Devi Vs. State of Himachal Pradesh], vide order dated 27.09.2024, the dismissal order passed in SLP (C) No. 19370/2024 [Tek Singh Vs. State of Himachal Pradesh] was recalled and the petition was restored to its original number along with one another petition, being SLP (C) Diary No. 39048/2024 [Shiv Lal Vs. State of Himachal Pradesh & Anr.]. Order dated 27.09.2024 is reproduced as under :-

*"Our attention is drawn to the orders passed by coordinate Benches of this Court, issuing notice. However, we had dismissed similar matters, vide two separate Records of Proceedings dated 30.08.2024 in SLP(C) No. 19370/2024, titled "Tek Singh v. The State of Himachal Pradesh", and SLP(C) Diary No. 39048/2024, titled "Shiv Lal v. State of Himachal Pradesh & Anr." SLP(C) No. 22556/2024 In view of the orders shown to us, we issue notice in the present special leave petition and tag it with SLP(C) No. 19946/2024, titled "Babu Ram v. State of Himachal Pradesh & Anr." and connected matters. SLP(C) No. 19370/2024 and SLP(C) Diary No. 39048/2024 shall be restored to their original position. Notice will be issued in both the said special leave petitions, subject to curing of defects, if any. Notices will be served by all*

*modes, including dasti. List the present special leave petition, SLP(C) No. 19370/2024, SLP(C) Diary No. 39048/2024 and SLP(C) No. 19946/2024 and other connected matters on 14.11.2024 before one Bench. If required, necessary orders in this regard from the Hon'ble the Chief Justice may be obtained."*

We were unaware that similar matters were being considered by another Bench in appeals [Civil Appeal No. 13362/2024 - Babu Ram Vs. State of Himachal Pradesh], which, after hearing both the sides, allowed the appeals vide order dated 28.11.2024, on the ground that prior to the eviction, the appellants were not given proper hearing and there was no demarcation, and the order of the authorities were not speaking orders.

".....

*13. The order of the Divisional Commissioner being the Appellate Authority who was approached by Babu Ram while laying a challenge to the order dated 7th November, 2015 of the Collector, fares no better. The Divisional Commissioner in the penultimate paragraph of his order dated 08th September, 2016 recorded that the Collector by a "speaking order" had directed eviction of unauthorized occupants. There can be no two opinions that the Divisional Commissioner too failed to apply his mind.*

*14. Having regard to what we have observed above, the order of the Collector falls*

*totally short of a being a "speaking order" and this finding of the Commissioner is clearly indefensible.*

*15. We are a little surprised that these infirmities in the original order of eviction as well as the appellate order went unnoticed by the High Court, which proceeded to dismiss the writ petition of Babu Ram. Reasonable and adequate opportunity of defence not having been extended, we have not the slightest hesitation to set aside the original order of eviction, the appellate order and the order of the High Court dismissing the writ petition. Ordered accordingly.*

*16. Since all the other appellants stand on similar footing as Babu Ram, they are also entitled to similar relief. The orders impugned in their civil appeals also stand set aside.*

*17. However, it cannot be gainsaid that a citizen has no right to encroach public land. If indeed any citizen has encroached public land and such encroachment is not otherwise entitled to be regularized under any law, a citizen has no right to sit on public land. In such a case, the minimum safeguard that is required of the State while ordering eviction of an alleged unauthorized occupant is to follow a fair procedure which would, inter alia, include a proper exercise conducted for*

*demarcation of the land in the presence of the party who is likely to be affected if an order of eviction were passed, a proper show cause notice under section 4 of the 1971 Act indicating the ground(s) on which action is proposed, which must be served together with any document that the State desires to rely on during the course of the eviction proceedings, a just and proper consideration of the response of the noticee to the show cause notice, sufficient opportunity to lead evidence, and application of mind to all the materials on record leading to an order of eviction, if at all, it is required to be passed. If an appeal is preferred, it is needless to observe that the provisions of the 1971 Act governing disposal of such appeals also need to be adhered to strictly apart from natural justice principles.*

*18. In the light of the above, we direct and order that the respondent-State, through its appropriate department, will undertake an appropriate exercise for demarcation of forest land upon written notice to Babu Ram. It would be desirable if such an exercise is completed as early as possible, preferably within two months from date. Similar such exercise shall be conducted in respect of the other appellants who are also alleged to be in occupation of forest land, unauthorizedly.*

19. *If the event of any of the appellants, despite being served written notice, abstaining from attending the proceedings, the exercise of demarcation shall proceed ex-parte against him. The report of demarcation shall be served on each of the alleged unauthorised occupants of forest land, if the respondent State proposes to proceed against them under Section 4 of the 1971 Act. The noticees shall be granted a fortnight's time to respond whereafter, the Collector shall take the proceedings to its logical conclusion in consonance with law as well as in the manner observed in this judgment within such further time as may be found necessary and reasonable by him.*

20. *If an order of eviction is passed, the same must be a speaking order. The unauthorized occupant(s) in such case shall be at liberty to work out his/their remedy(s) in accordance with the other provisions of the 1971 Act.*

21. *Since the appellants were dispossessed of their structures prior to filing of the special leave petitions giving rise to these civil appeals, status-quo ante as prevailing on the date the writ petitions were instituted before the High Court shall be restored which shall, however, be subject to and abide by further orders that might be passed in freshly initiated eviction proceedings.*

*22. All contentions on merit are kept open for being urged before the appropriate authority.*

*23. The civil appeals preferred by Babu Ram and the other appellants stand disposed of on the above said terms."*

We have already stated in the beginning of this order, that another Bench of which one of us (Sudhanshu Dhulia, J.) was a member has already dismissed a similar petition on the same day when the above petitions were being allowed i.e. on 28.11.2024.

Today, another bunch of petitions are before us. Since there are different views passed by different coordinate benches on the same day, i.e. 28.11.2024, on the same issue, it is our considered opinion that the matter be placed before Hon'ble The Chief Justice of India for constituting a larger Bench to decide the issue, if that be the appropriate course.

The parties are thus directed to maintain status quo, as it exists today, until further orders.

(JAYANT KUMAR ARORA)  
ASST. REGISTRAR-CUM-PS

(RENU BALA GAMBHIR)  
ASSISTANT REGISTRAR