

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**

**CWP No.:1017 of 2006 with**  
**CWP No.1031 of 2006.**

**Reserved on: 04.10.2007.**

**Decided on: 31.10.2007.**

**CWP No.1017 of 2006.**

**Shri Ram Swaroop.**                      ...        ...        **Petitioner.**

## Versus

**State of H.P. & Others.**                    ...                    **Respondents.**

**CWP No.1031 of 2006.**

**Ramesh Kumar & Ors.**                 ...                 **Petitioners.**

## Versus

<b>State of H.P. &amp; Others.</b>	...	...	<b>Respondents.</b>
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**Coram:**

**The Hon'ble Mr. Justice Rajiv Sharma, J.**

*Whether approved for reporting?*<sup>1</sup> No.

**For the Petitioners:                      Mr. Ramakant Sharma, Advocate.**

**For Respondents No.1 to 4: Mr. M.S. Chandel, Advocate General with Mr. M.A. Khan, Deputy Advocate General.**

**For Respondent No.5: Mr. Bhupender Gupta, Senior Advocate with Mr. Praneeet Gupta, Advocate.**

**Rajiv Sharma, Judge:**

These two writ petitions are being disposed of by a common judgment since they arise from the common orders passed by the

Whether reporters of local papers may be allowed to see the judgment? No.

Settlement Collector, Divisional Commissioner and the Financial Commissioner (Appeals), dated 24.8.2001, 19.1.2004 and 29.8.2006. Since the facts of both the writ petitions are the same, the Court will consider for convenience the facts of CWP No.1017 of 2006 for disposal of these two petitions.

The brief facts necessary for the adjudication of this petition are that the respondent No.5 had submitted the application for the correction of revenue records on 19.4.1994. The petitioner filed objections to the application on 1<sup>st</sup> August, 1994. The Settlement Collector during the pendency of the proceedings before him had sought for the reports from the Naib Tehsildar, Settlement, Tehsildar (Settlement), Shimla, Assistant Settlement Officer, Shimla. These officers had submitted the reports to the Settlement Collector on 11.8.1994, 6.8.1998, 9.9.1998, 1.6.2000 and 18.6.2000. These reports were produced by the State during the course of the hearing. The Settlement Collector after taking into consideration the submissions made by the respondent No.5 and the petitioner directed for the correction of the revenue records on 24.8.2001. Against the order dated 24.8.2001, the petitioner Shri Ram Swaroop filed an appeal before the Divisional Commissioner, Shimla bearing No.74/2002. Shri Ramesh Kumar and others filed appeal No.75/2004, Shri Ganga Ram and Liaq Ram filed appeals bearing No.73/2004 and 120/2002 before the Divisional Commissioner. The Divisional Commissioner accepted the appeals preferred by the petitioner and Shri Ramesh Kumar and others, Ganga Ram and Liaq Ram on 19.1.2004. The respondent No.5 filed appeals under Section 14 of the H.P. Land Revenue Act, 1954 against the order dated 19.1.2004 bearing No.4/2004. The respondent No.5 filed the appeals against the order dated 19.1.2004 against Shri Ramesh Kumar and others, Liaq Ram and Ganga Ram bearing No.5 of 2004, 6 of 2004 and 3 of 2004. The

Financial Commissioner (Appeals) vide common judgment dated 29.8.2006 allowed the appeals preferred by respondent No.5 and set aside the order of the Divisional Commissioner, dated 19.1.2004. A challenge has been laid to the order dated 29.8.2006 only by Shri Ram Swaroop and Ramesh Kumar and others in this petition.

Mr. Ramakant Sharma had strenuously argued that the order passed by the Financial Commissioner (Appeals) dated 29.8.2006 is not sustainable in the eyes of law. He had primarily contended that the Settlement Collector had no jurisdiction to order the correction of revenue entries once the settlement operations have come to an end. The learned Advocate General appearing on behalf of respondents No.1 to 4 and Mr. Bhupender Gupta, learned senior Advocate with Mr. Praneet Gupta, Advocate appearing on behalf of respondent No.5 had supported the order of the Financial Commissioner (Appeals) dated 29.8.2006.

I have heard the learned counsel for the parties and perused the record.

The respondent No.5 had submitted application for correction of revenue entries on 19.4.1994. The objections were filed to the same on 1.8.1994. The Settlement Collector had sought for the report from the Naib Tehsildar, Settlement. The report was furnished by the Naib Tehsildar, Settlement on 11.8.1994. Thereafter another report submitted by the Settlement Tehsildar, Shimla on 6.8.1998. During the course of the proceedings before the Settlement Collector further reports of the Assistant Settlement Officer, Settlement Naib Tehsildar and Assistant Settlement Officer, dated 9.9.1998, 1.6.2000 and 18.6.2000 were submitted. The Settlement Collector on the basis of the pleadings of the parties and on the basis of the reports as detailed hereinabove directed the correction of the revenue entries.

The learned Advocate General had strenuously argued on the basis of the reply filed by the State that settlement operations had not come to an end since no notification for closing the operations had been issued and only the record has been handed over to the agency of the Deputy Commissioner, Solan for up-dating and day-to-day work in December, 1993. He had further contended that the land revenue was yet to be assessed on each holding including the land in question. It appears from the reports of the Naib Tehsildar, Settlement, Tehsildar (Settlement), Assistant Settlement Officer, dated 11.8.1994, 6.8.1998, 9.9.1998, 1.6.2000 and 18.6.2000 that during the course of settlement operation old record was not taken into consideration and the Settlement Officer vide order dated 24.8.2001 had given the land to respondent No.5 as per dimensions denoted in old Shajra. It cannot be presumed that by ordering the correction by restoring the entries of the record on the pre-settlement record, the title has been changed. The Divisional Commissioner had not taken into consideration the true import of the reports based on the spot inspection carried out by the Naib Tehsildar, Settlement, Tehsildar, Settlement and the Assistant Settlement Officer. The finding recorded by the Divisional Commissioner to the effect that the Settlement Officer had no jurisdiction to correct the entries is not supported by the record. The necessary correction could be carried out by the Settlement Collector once he had found the record faulty and tempered by comparing the old record. The Financial Commissioner (Appeals) by adopting the correct process of reasoning had rightly set aside the order of the Divisional Commissioner, dated 19.8.2004. The parties, as is evident from the order of the Financial Commissioner had not disputed that the settlement of the revenue estate was not closed at the time of the corrections have been directed to be made by the Settlement Collector vide his order dated 24.8.2001.

The plea raised by Mr. Ramakant Sharma with regard to Section 171 and 38-A of the Land Revenue Act, 1954 is untenable simply on the ground that the settlement operations had not come to end when the Settlement Collector had passed the order on 24.8.2001. The Settlement Collector had merely corrected the errors which had crept in the record due to tempering by the field staff.

Accordingly, there is neither any jurisdictional error nor any procedural irregularity in the order dated 29.8.2006 passed by the Financial Commissioner (Appeals).

Consequently, both these writ petitions are devoid of any merit and the same are dismissed with no order as to costs.

**October 31, 2007.**  
(sck)

**(Rajiv Sharma), Judge.**