

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 933 of 2008-D

Decided on: 29.06.2012

Gian Chand, s/o Late Sh. Mangat Ram Temta, r/o Temta Cottage, Dabri Line, Phagli, Shimla-4.

...Petitioner.

Versus

1. The State of Himachal Pradesh through the Secretary (Revenue) to the Government of Himachal Pradesh, Shimla-171 002.
2. The Director, Town & Country Planning, Kasumpti, Shimla-171 009.
3. the Commissioner, Municipal Corporation, Himachal Pradesh, Shimla-171 001.
4. The Secretary (Forest) to the Government of Himachal Pradesh, Shimla-171 002.
5. Shri Suresh Kumar, s/o Shri Saktu Ram, r/o Akash Bhawan, Dabri Line, Phagli, Shimla-4.

...Respondents.

6. Balvinder, s/o Late Sh. Mast Ram, nLr. Of Late Smt. Vohru Devi, r/o Dabri Line, Phagli, Shimla-4.

...Proforma Respondent .

Civil Writ Petition under Articles 226/227 of
the Constitution of India.

Coram

The Hon'ble Mr. Justice Deepak Gupta, J.

Whether approved for reporting?¹ No.

For the petitioner: Mr. S.D. Gill, Advocate.

For the respondents: Mr. Vivek Singh Thakur, Additional Advocate General, for respondents No. 1, 2 and 4.

Mr. Umesh Kanwar, Advocate, vice Mr. Shrawan Dogra, Advocate, for respondent No. 3.

Mr. Romesh Verma, Advocate, for respondent No. 5.

¹ *Whether the reporters of local papers may be allowed to see the Judgment? Yes.*

Deepak Gupta, J. *(Oral)*

The petitioner, by means of this petition, has prayed that the sale of plot No. 7 by the owner to respondent No. 5 is totally illegal.

2. The grievance of the petitioner is that the original owner of the property made plots. He had depicted plot No. 7 as a green area and taking these factors into consideration, the petitioner had purchased plot No. 2. However, the original owner sold the plot No. 7 to respondent No. 5. The prayer of the petitioner is that a writ of mandamus be issued against the State and the Municipal Corporation to perform their statutory duties to safeguard the green area and they be asked how and in what manner the sale of plot No. 7 was permitted. He has also prayed that the construction raised on the plot be declared to be illegal and be demolished.

3. As per the averments made in the petition itself, the plot was sold in the year 1997 and the construction had been raised much before the writ petition was filed in June, 2008. If the petitioner had any grievance, he should have taken action when respondent No. 5 had just started the construction. The petitioner could not wait for respondent No. 5 to spend lacs of rupees to complete the construction and then file such a petition.

4. Therefore, the petition is rejected on the ground that the same has been filed at a very belated stage. Interim orders, if any, stand vacated.

(Deepak Gupta)
Judge

June 29, 2012
(rajni)