



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPIL No. 17 of 2014

Date of Order: 27.07.2015

Court on its own motion
Ref:- Krishan Chand

...Petitioner.

Versus

The State of H.P. & others

...Respondents.

Coram

The Hon'ble Mr. Justice Mansoor Ahmad Mir, Chief Justice.

The Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge.

Whether approved for reporting? Yes.

Present: Mr. J.L. Bhardwaj, Advocate, as Amicus Curie.

Mr. Shrawan Dogra, Advocate General, with Mr. Anup Rattan & Mr. Romesh Verma, Additional Advocate Generals, and Mr. J.K. Verma, Deputy Advocate General, for respondents No. 1 to 8.

Mr. Satyen Vaidya, Advocate, for respondent No. 9.

Mansoor Ahmad Mir, Chief Justice *(Oral)*

CMP No. 8099 of 2015

By the medium of this motion, the State-respondents have sought modification of order, dated 06.04.2015, read with

the orders passed thereafter by this Court, on the grounds taken in the memo of the application.

2. While going through the application, it appears that the State has not sought modification of the orders (supra), but has shown its bona fides to protect the apple trees, the fruits and the crop(s), which is/are standing on the encroached forest land and to protect the environment as cutting of a large number of trees may cause deforestation.

3. Shri Tarun Shridhar, Additional Chief Secretary (Forests) to the Government of Himachal Pradesh, has sworn in the affidavit and virtually has given undertaking. It is apt to reproduce para 2 and relevant portion of para 4 of the application herein:

"2. That the Respondent No. 2 truly and whole heartedly appreciates the spirit behind this interim order for the preservation and conservation of forests in this mountainous State of Himachal Pradesh. The State is committed to the protection and conservation of its pristine forests in order to enhance the tree cover. The Forest Department along with other concerned departments is making earnest efforts to remove the encroachments on forest lands in order to

comply the aforesaid orders of this Hon'ble Court.

3.

4. That with due regards to the spirit and intent behind the directions passed in the aforesaid order by this Hon'ble Court, the partial modification of the direction contained in para 15 (e) to the extent that the encroached land along with all standing crops and plants existing over it shall be taken over by the forest department for its further management and properly fenced with barbed wire at the costs and expenses of the encroacher is prayed for in order to avoid the highlighted effects which may have adverse repercussion in the entire landscape. The income so generated by the department shall be spent in carrying out the afforestation over such lands in a phased manner. During the process of afforestation, the standing fruit bearing crops like apples, pears etc. after culmination of their life span shall be replaced gradually with nature plants of wild origin."

4. Before we pass any direction, we deem it proper to record herein that it appears that the officials/officers of the State have remained in deep slumber for a pretty long time and have shut their eyes allowing the encroachers to plant apple trees, which have now become fruit growing trees/orchards, is suggestive of the fact that those encroachers would have cut down

the forest trees from the encroached forest land, made that land vacant and thereafter, would have made plantation. The least is said is better.

5. It is also not known as to whether any action has been drawn by the State authorities against all those encroachers, who have cut down the forest trees and have made plantation of apple trees and whether any action has been taken against all those officers/officials who were in position from time to time.

6. It is made clear that we are not going to make any modification in any of the interim directions passed from time to time, but in order to preserve/protect the forests, the crops and the fruits, i.e. apples, we deem it proper to issue the following directions:

(i) The State officers in general and the Chief Secretary to the Government of Himachal Pradesh and the Principal Secretary (Forests) to the Government of Himachal Pradesh in

particular, are held responsible to pluck the apples, conduct the sale of the apples and utilize the sale price for planting forest trees, which are known as forest species, and not any other kind of plantation, i.e. apple, pears, plum, cherries, almonds, etc.

(ii) They are directed to take a exercise of pruning of apple trees, on the encroached forest land, after plucking the apples in order to minimize the apple crop in the coming seasons.

(iii) They are also permitted to conduct sale of standing crops on the encroached forest land and utilize the sale price for the purpose of plantation of forest trees and its preservation with a further direction to ensure that no person is allowed to sow seeds of any crop on the encroached forest land. For the coming seasons, if any crop grows on its own, i.e. by natural process, that be destroyed.

-: 6 :-

(iv) The respondents-State are directed to ensure that immediately after removing the crops, plantation drive is made so that no land remains vacant for making room for any person to sow seeds or to plant apple trees and the species of the crop, which is standing, as on today, on the encroached forest land.

(v) They are directed to fence the entire land by barbed wires and ensure that no encroachment is made in future.

(vi) They are also directed to furnish details and particulars of those persons, who have made encroachment on the forest land by plantation of apple trees, by sowing any crop or by any other method, and whether any action has been taken against them so far and what is the outcome.

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7. The Chief Secretary to the Government of Himachal Pradesh, the Principal Secretary (Forests) to the Government of Himachal Pradesh and the Director General of Police are personally held responsible to monitor the entire exercise and have also to execute an undertaking to the effect that they will ensure that all directions passed by this Court from time to time, including the directions contained in this order, are implemented and complied with in letter and spirit.

8. It is made clear that any deviation shall be seriously viewed and the Chief Secretary to the Government of Himachal Pradesh, Principal Secretary (Forests) to the Government of Himachal Pradesh and the Director General of Police shall be personally responsible for any violation.

9. Respondents to file detailed status report by or before 3rd August, 2015.

10. The application is disposed of accordingly.

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11. Respondents to file status report in terms of the

-: 8 :-

previous orders. List on **3rd August, 2015**, the date already ◇
fixed.

Copy dasti.

(Mansoor Ahmad Mir)
Chief Justice

(Tarlok Singh Chauhan)
Judge

July 27, 2015
(rajni)

High Court