

BEFORE THE NATIONAL GREEN TRIBUNAL,
NEW DELHI

O.A. No. 266 OF 2022

Narayan Das & Anr

...Petitioner

Versus

State of Himachal Pradesh & Ors

...Respondents

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Place: Delhi
Dated: 15.03.2023

Joint Secretary (Revenue)
to the Govt of H.P.
Respondent No.01, 02 & 06.
Through

Manish Kumar Advocate

Panel Counsel

For the State of H.P

S-138, LGF, G.K-1

New Delhi, Ph:9971493975

E-mail: chambersofmanishkumar@gmail.com

**BEFORE THE NATIONAL GREEN
TRIBUNAL, NEW DELHI**

O.A. No. 266 OF 2022

Narayan Das & Anr

.....Petitioner

Versus

State of Himachal Pradesh & Ors

...Respondents

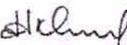
**REPLY TO O.A No. 266 / 2022 ON BEHALF
OF RESPONDENTS No. 1, 2 AND 6.**

RESPECTFULLY SHEWETH:

PARAWISE REPLY

That the replying respondents in compliance to this Hon'ble Tribunal orders dated 20-07-2022 and 20-01-2023 passed in the above mentioned O.A has got the matter re-enquired through District Revenue Authorities in view of the facts and grounds submitted by the Joint inspection Committee in its report dated 19-05-2022 and parawise reply to the original application is submitted as under :-

1. That the contents of para No. 1 of the OA is narrative in nature with respect to the land in question, hence require no comments.


Joint Secretary (Revenue)
to the Govt of H P

ATTESTED

**Executive Magistrate
H.P. Sectt., Shimla**

2. That the contents of para No 2 of the OA are descriptive in nature and requires no reply as facts which have been described in this para are not denied as per ground position.
3. That in reply to this para, it is submitted that the averments relates to a specific event with no factual details and the same has not been confirmed by any department concerned.
4. That in reply to this para, it is submitted that as per the report of Tehsildar Shimla (Rural), in Missal Haqiyat for the year 2016-17, land comprising in Khata / Khatauni No 123/185, Khasra No 308/1, area measuring 0-33-56 hectare, classification of land is recorded as Charagah which is owned by the Government of H.P. and the right of "Tabe Haquq Bartan Bartan Daran" as per Wajib-ul-arz is recorded in favour of residents of the villagers. He has further reported that in the previous Jamabandi for the year 2001-02, the disputed land comprising in old Khasra No. 1006/683, area measuring 11-16-00 Bighas was recorded in the ownership in the State of Himachal Pradesh, possession entered in the name of villagers (residents) and classification of the land was shown as Charand. It is pertinent to mention here that most part of land of Khasra No. 308/1, area measuring 0-33-56 hectare exists in the

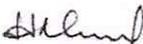
Joint Secretary (Revenue)
to the Govt. of H.P.

ATTESTED

Executive Magistrate
H.P. Sectt., Shimla

shape of a ground which has been found constructed and in other parts of the same khasra number there are trees of deodar, alpine, shrubs and on some portion of the land a Panchayat Ghar also exists. The density of trees is very shallow and sparse in the vicinity of the ground. It is further submitted that in respect of land use change, it is clear that the site has been worked on but no major land use change is discernible either with respect to old records or new entry in Jamabandi as ownership pertains to Government of HP with no express consent whatsoever on record from any competent authority indicating such change in land use.

5. That in reply to this para, it is submitted that a CWPIIL No 24 / 2022 was also registered by the Hon'ble High Court of H.P. on the similar complaint of the petitioners and the Deputy Commissioner, Shimla has filed parawise reply on behalf of respondents No. 4 in the said petition. A copy of reply is annexed as **Annexure R-1** herewith. The Divisional Forest Officer, Shimla has reported that although seedling plants from the department for plantation were demanded by Yuvak Mandal, Mahila Mndal but department was not involved in the said activity. Hence, for want of

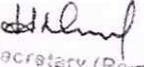

Joint Secretary (Revenue)
to the Govt of H P

ATTESTED

Executive Magistrate
H.P. Sectt., Shimla

knowledge, the allegation leveled in this para is denied.

6. That in reply to this para it is submitted that as per the report of the Executive Engineer Jal Shakti Division No-1, Kasumpti, Shimla -9, the pipe line of 50mm feeding 45 water connections which were passing through the middle of the ground, has already been shifted to the side of the mentioned area, so as to avoid the damages to the water supply pipe line.
7. That in reply to this para it is submitted that as per the report of the Executive Engineer HPSEB, Jutog Shimla, no transmission line or poll has been replaced till date, however, at the time of construction of 33 KV Sub Station the electricity poll had fallen during the construction of retaining wall and presently their 11-KV Banuti feeder line is not in working order.
8. That in reply to this para it is submitted that no reports as such relating to felling of tree is available on record and hence the contents of this para are denied.
9. That the contents of this para are wrong, hence denied. In this regard this is refuted as no inference

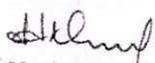

Joint Secretary (Revenue)
to the Govt of H.P.

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Executive Magistrate
H.P. Sectt., Shimla

can be drawn in this matter regarding any conspiracy at the part of anyone.

10. That the contents of this para are wrong, hence denied. It is submitted that the averments have been made on no concrete grounds and have no correlation with respect to felling of trees and any other consequential happening. In this regard forest department has already vehemently denied any allegation with respect to felling of trees or trade in trees in any manner.
11. This para requires no reply on behalf of replying respondents as it is based on event having no correlation with the said allegations.
12. This paragraph is descriptive in nature and hypothetical in its averments which do not hold any water as no such act or omission has been alleged in this regard. That as per the report of District Ayush Officer Shimla, the Ayurvedic Health Centre Banuti Devi is presently housed in Panchayat Ghar building, since 03-03-2022. However, it was earlier running in old Panchayat Ghar building (rent free), & old building was already in bad condition during the construction of ground. Moreover, the losses occurred while construction of ground to the building in which Ayurvedic Health Centre Banuti Devi was running

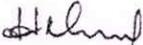

Joint Secretary (Revenue)
to the Govt of H P

ATTESTED

Executive Magistrate
H.P. Sectt., Shimla

earlier cannot be evaluated by this office as it was Gram Panchayat building and its office has been shifted to the new accommodation.

13. That the contents of this para require no comments on behalf of the respondents. However detailed submissions in this regard have already been made in para No 7 supra.
14. That in reply to this para it is submitted that there is a pitch about 2 mtrs of concrete made on the spot but having no relation as to said allegations as it is attributed to no one but to local children for sports purpose only.
15. That the contents of this para calls no reply as it is descriptive in nature and based on conjecture.
16. That the contents of this para are wrong, hence denied as the averments made in this para are based on no verifiable evidence or concrete ground.
17. That in this regard it is submitted that most part of land comprising in Khasra No 308/1, as per the report of Block Development Officer Totu (Hirangar) and Secretary Gram Panchayat Dudhalhati, the status quo of the said topography /landscape in compliance to the orders/ directions passed / issued by the Hon'ble NGT on dated 20-07-2022 has been maintained. There is a ground consisting in Khasra No 308/1 as per revenue

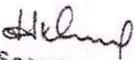

Joint Secretary (Revenue)
to the Govt of H.P.

ATTESTED

Executive Magistrate
H.P. Sectt., Shimla

record and there is no change in the topography / landscape of Khasra no 308/1. The Gram Panchayat has never removed/fallen any tree from the said area/ playground and no funds were sanctioned for construction of any cricket pitch by the Panchayat. Besides this, they have intimated that till date, no funds have been utilized for the construction of the said ground by Gram Panchayat Dudhalhati and presently the said Panchayat has maintained the status of the said area as earlier reported to the higher authorities on dated 12-10-2022 in compliance to the order/ directions passed by the Hon'ble NGT on dated 20-07-2022.

Further, it is submitted with regard to above directions that the detailed submissions regarding questions of permissibility of change of land use and its entire topography /landscape has been made in para No 5 supra. Further, the Forest Department in its reply submitted by the Chief Conservator of Forest in CWPIIL No 24 of 2022 which was registered by the Hon'ble High Court on the same complaint as the OA No 266 of 2022 has reported that the petition appears to be a result of revenge of rivalry as no felling of trees taken place in the area in question. Further he has reported that there exists Khasra No 308/1, just abutting the Khasra No 308,


Joint Secretary (Revenue)
to the Govt of H.P.

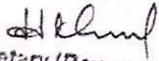
ATTESTED

Executive Magistrate
H.P. Sectt., Shimla

the allegation with regard to illicit felling of trees adjoining the play ground so exist in land comprising in Khasra No 308/1 is not correct and hence strongly denied.

In view of the above detailed submissions and facts of the case, this Hon'ble Tribunal is respectfully prayed that the present OA / complaint preferred by the petitioner is devoid of any merit and may kindly be dismissed in the interest of Justice.

Place: Delhi
Dated: 15/03.2023


Joint Secretary (Revenue)
to the Govt. of H.P.

Respondent No.01, 02 & 06.

Through

Manish Kumar Advocate

Panel Counsel,

For the State of H.P,

S-138, LGF, G.K-1,

New Delhi, Ph: 9971493975

E-mail: chambersofmanishkumar@gmail.com

ATTESTED

Executive Magistrate
H.P. Sectt., Shimla

BEFORE THE NATIONAL GREEN TRIBUNAL,
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O.A. No. 266 OF 2022

Narayan Das & Anr

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Versus

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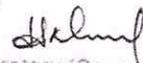
Affidavit

I, Balwan Chand, aged 51, R/o Village Barah, PO Sandhole, District Mandi, HP presently working as Joint Secretary (Revenue) to the Govt. of HP, Shimla-02, Shimla-02 do hereby solemnly affirm and declare as under:-

1. That the accompanying reply to the OA has been drafted at my instance and under my instructions being competent to do so on behalf of respondent.
2. That the contents of para 1-17 of reply on merits are true and correct to the best of my knowledge and belief as derived from official record.

That I above named deponent do hereby solemnly affirm and verify that the contents of this affidavit of mine from para 1-2 are true and correct. No part of it is false and nothing material has been concealed therein.

Verified at Shimla on this 15th day of March, 2023.


Joint Secretary (Revenue)
to the Govt of H P

DEPONENT

ATTESTED

Executive Magistrate
H.P. Sectt., Shimla

83/2023
Declared before me on 15 day of March, 2023 on oath (Solemnly Affixation)
by Shri Balwan Chand Jt. Secy.
Who is personally known to the or who
has been identified by Sh. J. P. Singh, Secy. Govt. of HP
who is personally known to me. 
Executive Magistrate
H.P. Sectt., Shimla

IN THE HON'BLE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWPIL No. 24 of 2022

In the matter of:-

Court on its own motion

.....Petitioner

VERSUS

State of H.P. and others

..... Respondents.

Index

Sr. No.	Particulars	Pages
1.	Reply to the CWPII. by the respondent No. 4 alongwith affidavit.	1-9
2.	Annexure R-1- The copy of letter No. SMI.-LB-II (W-3-22)2022-840 dated 28-04-2022.	-10-
3.	Annexure R-II- The copy of the statements and its translated copy.	11-12

Place:- Shimla

Date :- 4-07-2022

Deputy Commissioner,
Shimla (H.P.)-171001

Through

Addl. Advocate General

A Hestad

Joint Secretary (Revenue)
to the Govt of H P

IN THE HON'BLE HIGH COURT OF HIMACHAL
PRADESH AT SHIMLA

In the matter of
Court on its own motion

CWPIL No. 24 of 2022

.....Petitioner

Versus

State of H.P. and others

.....Respondents

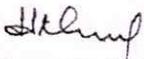
Reply to the CWPIL No 24 of 2022
in compliance of the orders passed
by the Hon'ble High Court on 19-
04-2022 by the respondent No-4
i.e. Deputy Commissioner Shimla

MAY IT PLEASE YOUR LORDSHIPS:

Preliminary Submissions:

1. That the above case was listed before the Hon'ble High Court on 19-04-2022 and the Hon'ble Court has directed the respondents to file the reply. In compliance to the directions issued by the Hon'ble High Court, replying deponent vide letter No. SML-LB-II (W-3-

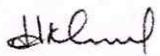
Attested


Joint Secretary (Revenue)
to the Govt of H.P.

22)2022-840 dated 28-04-2022, has directed to the Sub- Divisional Officer (C) Shimla (Rural), Divisional Forest Officer, Shimla (Rural) and Block Development Officer, Totu with the directions to enquire into the matter and send the status report within stipulated period. The copy of letter No. is annexed as Annexure R/1.

2. That in compliance of the directions issued by the replying respondent, Divisional Forest Officer, Shimla (Rural) vides his Endst. No./RK/ 1360 Dated Shimla-171002, 20-05-2022 has sent the detailed report/comments to the above case. In the comments / reply, the Divisional Forest Officer Shimla (Rural) Division has reported that the petition seems to be result of revenge or rivalry as no feeling of trees has taken place in the area in question. Further, he has also reported that the HPSEB Ltd is in possession of the

Attested


Joint Secretary (Revenue)
to the Govt of H P

khasra No 308, Mohal Banuti Tehsil and Distt- Shimla. The State of H.P. is the owner as per the revenue record. The JIPSEB during the year 2017-18 had applied for the felling of trees for the installation of MVA, 33/111 Sub-Station at Banuti and the Chief Conservator of Forests Shimla, forest circle vide letter no. C-28-B-1265/Shimla/11027 dated 01-02-2018 has conveyed the approval for the felling of 26 trees of various species for the installation of MVA, 33/111 Sub-Station at Banuti. The Khasra No. 308/1 exist just abutting the Khasra No. 308 and the allegations with regard to illicit felling of various trees adjoining the play ground exist on the khasra No 308/1 is not correct.

3. The revenue field agency has also reported the Khasra no 308/1 area measuring 0-33-56 hect. at Up – Mohal Banuti is in the ownership of State of HP and in the possession of *Tabe Hakook Bartan Bartandaran*.

Attested

[Signature]
Joint Secretary (Revenue)
to the Govt. of H.P.

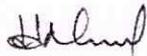
[Signature]
Deputy Commissioner.

Naksa Bartan in the revenue record. The said land is in the possession of Vidyut Vibhag. As per the spot inspection most of the part of the said Khasra No. is lying vacant and on the some part of said land there are few trees of Devdar and Pine. The revenue field agency has also recorded the statement of complainants Sh Narayan Dass and Sh Sant Ram who have stated that no trees have been felled and the said complaint is false and the same has not been filed by them. The copy of statement of complainant Sh. Sant Ram and Narayan Dass is annexed as **Annexure R- 2**.

Reply on Merit:

1. That the contents of this para require no submission on behalf of replying responded-being a matter of record.
2. That the contents of this para require no submission on behalf of replying responded being a matter of record.

Attested


Joint Secretary (Revenue)
to the Govt of H P



3. That the contents of this para require no submission on behalf of replying responded being a matter of record.
4. That the content of this para are denied for want of knowledge. However, the Divisional Forest Officer has reported that the school as well as the Yuvak Madal, Mahila Mandal demands for seedling plant from the department for plantation but the forest department does not involved in the said activities.
5. That the contents of this para are wrong, hence denied. The detailed submissions qua the averments made in this para have already been made in preliminary submissions.
6. That the contents of this para are wrong, hence denied. The detailed submissions qua the averments made in this para have already been made in preliminary submissions.
7. That the contents of this para are wrong, hence denied. It is submitted that the petitioners have to brought the matter in the knowledge of the Revenue, Police

Attested

H. K. Singh
Joint Secretary (Revenue)
to the Govt of H P

[Signature]
Revenue Officer

Attested

10 To 12. That the contents of these paras are wrong, hence denied. It is submitted that the revenue field agency have complaint has been received from any department.

9 That the contents of this para are wrong, hence denied. If any damage to the government property i.e. removal of pole of electricity and water pipe line was done by some miscreants, the concerned departments would have lodged a complaint against the wrong doer, but no such complaint has been received from any department.

8 That the contents of this para are wrong, hence denied. The detailed submissions in this regard have already been made in preliminary submissions.

Hon'ble Court by filing false complaint. appears that the complainants are misleading this at the time of occurrence of the incident and from this it complaint has been received by the replying respondent occurred as alleged in the petition. In this regard no department at that point of time when this incident

also recorded the statement of the complainant Sh. Narayan Dass and Sh. Sant Ram who have reported that no trees were fell down as alleged in the present case and the said complaint has not been filed by them. The detailed submissions qua the averments made in these paras have already been made in preliminary submissions.

In view of the submissions made hereinabove it is submitted that the above CWPII being devoid of any merit may kindly be dismissed in the interest of justice and fair play.

Place: - Shimla

Deputy Commissioner,
Respondent
Shimla (H.P.)-171001

Date: - 04-07-2022

Through

Addl. Advocate General

Attested

Attested
Joint Secretary (Revenue)
to the Govt of H.P.

IN THE HON'BLE HIGH COURT OF HIMACHAL
PRADESH AT SHIMLA

In the matter of
Court on its own motion

CWPIL No. 24 of 2022

.....Petitioner

Versus

State of H.P. and others

.....Respondents

Affidavit

I, Aditya Negi S/o Sh. S.K.Negi Age about 36 years presently posted as Deputy Commissioner Shimla do hereby, solemnly affirm, declare and state on oath as under:-

1. That the accompanied reply to the above CWPIL has been drafted at my instance and the contents para No. 1 to 3 of the preliminary submissions and the contents of the para No. 1 to 12 of the reply on merit of accompanying reply are true and correct to the best of my knowledge and belief, as derived from the official record. No

Attested

[Signature]

Joint Secretary (Revenue)
to the Govt of H.P.

[Signature]

part of the same is false and nothing material has been concealed therefrom.

2. That I, the above named deponent, do hereby further state, verify and declare on oath that the contents of above affidavit of mine, are also true and correct to the best of my knowledge and belief. No part of the same is false and nothing material has been concealed there from.

Verified at Shimla today on the day of 4, July, 2022 .

Alleged

Helm

Joint Secretary (Revenue)
to the Govt of H P

[Signature]
Deputy Commissioner,
Shimla (H.P.)-171001

Time Bound URGENT/ HIGH COURT MATTER.

No: - SMI-I.B-II (W-3-22)2022- 840
Office of the Deputy Commissioner,
Shimla, District Shimla, H.P.
Dated: - Shimla the 28th April, 2022

To

The Sub- Divisional Officer (C),
Shimla, Distt-Shimla, H.P. Rural

Subject: -

CWPIL No. 24/2022 - titled as Court on its own motion Versus State of
H.P. and others.

Sir,

Please find enclosed herewith a copy of CWPIL No. 24 of 2022 received from
the office of Ld. Advocate General of H.P. vide his letter No. CWPIL-24/2022- 16264 dated
21-04-2022 on the subject cited above.

In this regard, it is intimated that in the instant matter petitioner has
contended that the land bearing Khasra No. 308/1 at Mauza Up Mohal Banuti is a government
land and classified as Charand. In he year 2012 in order to beauty the said land the plants were
planted with the help of school children and Forest Department. Further, the petitioners have
contended that the Gram Panchayat and the former public representatives have constructed the
ground by uprooting and imbedding all the trees into the ground by engaging three JCB
machines day and night with the support of Panchayat. You are therefore requested go to the
contents of the above CWPIL and send the detailed parawise comments to this office within
two weeks time positively so that reply could be filed in the Hon'ble High Court within
stipulated period.

Yours faithfully

[Signature]
Deputy Commissioner
Shimla, Distt. Shimla, H.P.
Dated: 28-4-2022

Endst No:- As above. 841 to 843

Copy forwarded to:-

1. The Ld. Advocate General H.P. w.r.t. his office letter No. CWPIL. 2/2022 dated 20-01-2022 for information please.
2. The Divisional Forest Officer Shimla (Rural) alongwith copy of above CWPIL. with the request to send the parawise comments to the above ease to this office within a week's time
3. The Block Development Officer Mashobra District Shimla for similar action and send the comments to the above case within a week's time.

Attested

[Signature]
Joint Secretary (Revenue)
to the Govt of H.P.

[Signature]
Deputy Commissioner
Shimla, Distt. Shimla H.P.

श्री. खेतसिंग - पुत्र - जगत - निवासी - रूप - महाल - बनुरी
त. - शिमला (शा.) - जिला - शिमला (हि. प्र.) - आयु - 58
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श्री. नारायण - पुत्र - शं - गाहू - निवासी - रूप - महाल - बनुरी - त.
- शिमला (शा.) - जिला - शिमला (हि. प्र.) - आयु - 60
वर्ष

ज्ञान - विंगोस 22/06/2022 को पदवी हल्ला गये रजिस्ट्रार
कागजात आगमना आदेशा प्रकाश से SML LB-11(W-3-24
2022 की दलगीनर हेतु मोरा पर पढ़नी। जेका
पर ध्यान फिरो कि हगारे जना यह शिकायत
की गई यह शिकायत पूनी निशचार है।
वर्ष 2017-2018 में खा. न. 308 पर निमी
प्रकार के पेड़ नहीं थे - छोटी - 2 क्षमति यो थी
- लो - देवता के आगमन के लिए सफ
किया जाया था - रही हगारा धान हे पडा
- लुना न सही माना ।

(R.O. & A.C)

D. सन्ताराम

५, नारायणदास

Attest

Attest

Joint Secretary (Revenue)
to the Govt of H.P

14
06
22/06/2022
प्रमोद गुप्ता, डी.आर.ओ.
पदवार पूर - शिमला
श. व जिला शिमला (हि.प्र.)

बयान

श्री खतराम पुत्र कामरु निवासी उप महाल बजुरी
त. शिमला (सा.) जिला शिमला (दि. प्र.) आयु - 58 वर्ष

श्री नारायण दास पुत्र माहू निवासी उप महाल बजुरी त.
शिमला (सा.) जिला शिमला (दि. प्र.) आयु - 60 वर्ष

बयान दिनांक 22/06/2022 को पटवारी हकीम मथ बजुरी
कोरगावत आम्हा आदेशा उपर सं. SML LB-11(W-3-24)
2022 की दखनबीज हेतु मौजा पर पहुची। मौजा
पर आज किमा कि हमारे द्वारा यह विक्रयत
जमीं की गई यह विक्रयत पूर्ण निशब्द है।
वर्ष 2017-2018 में ख. न. 308 पर किसी
उम्मीद को पेट नही थे छोटी-2 इमारतियां थी
जिसे नैका के आगमन के लिये बिक्रय
किया गया था यही हमारा बयान है पंडा
जुना व सही माना।

(R & AC)

D. खतराम

श्री नारायणदास

Attested

Joint Secretary (Revenue)
to the Govt of MP

14
05
22/06/2022
प्रमाण सत्य सुनिश्चिता
पटवार इम. बजुरी
त. व जिला शिमला (दि. प्र.)

Typed copy of Annexure R/1

Statement

1. Sh. Sant Ram S/o Mathu Ram age about 58 years, R/o village Up Mohal Banuti Tehsil Shimla (Rural) Distt. Shimla (H.P.)
2. Sh. Narayan Dass S/o Mathu Ram age about 60 years, R/o village Up Mohal Banuti Tehsil Shimla (Rural) Distt. Shimla (H.P.)

Today on 22-06-2022, patwari halqua alongwith revenue papers in compliance to the directions issued vide letter No. SML- LB-II (W/3-22) reached on spot for inquiry. Statements given on the spot that this complaint was not made by us and this complaint is totally baseless. In the year 2017-2018, there were no trees on land bearing Khasra No. 308/1 but there were small bushes, which were cleared for the arrival of Devta. This is our statement which has been read, listened and admitted correct.

RO to AC

1. Sant Ram.
2. Narayan Dass.

Sd/-

Village Revenue officer
Parwar Circle Bhont
Teh. & Distt. Shimla (H.P.)

Alkesh

Alkesh

Joint Secretary (Revenue)
to the Govt of H.P.