

Vidya Devi Vs. Smt. Chander Kanta

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Court : Himachal Pradesh

Decided On : Jul-04-2006

Reported in : 2006(2)ShimLC330

Judge : V.K. Gupta, C.J. and; Surjit Singh, J.

Acts : Himachal Pradesh Land Revenue Act, 1953 - Section 14

Appeal No. : C.W.P. No. 416 of 2006

Appellant : Vidya Devi

Respondent : Smt. Chander Kanta

Advocate for Def. : Vandana Kuthiala, Adv. for Respondent No. 1,; M.S. Chandel, Adv. General and;

Advocate for Pet/Ap. : Bimal Gupta, Adv.

Judgement :

V.K. Gupta, C.J.

1. Order dated 4th May, 2006 was passed by respondent No. 2 in an appeal purportedly filed before him under Section 14 of the H.P. Land Revenue Act, 1953. In the impugned order while admitting/ accepting the appeal filed by respondent No. 1 against the petitioner, respondent No. 2-Collector, Sub Division, Kalpa at Reckongpeo had restrained the petitioner from raising any type of

construction/work in the land forming the subject matter of the aforesaid appeal.

2. Reply has been filed by respondent No. 2 in which it is stated that the aforesaid order stands modified to the extent that the construction has been allowed to be continued as per the plan approved by the SADA. Even though the impugned order dated 4th May, 2006 has been modified by respondent No. 2, we do wish to observe that the impugned order dated 4th May, 2006 in so far as it restrained the petitioner from raising any construction over the land in question was totally and patently without any jurisdiction. The Appellate Authority under Section 14 of the H.P. Land Revenue Act, 1953 under the Scheme of the said Act was not possessed of any power or jurisdiction to pass any interim order, much less an interim order in the nature of a restraint order restraining an opposite party from raising any construction over piece of land forming the subject matter of the appeal. Moreover in the present case, the appeal relates only to a mutation attested in favour of the petitioner and therefore, there was hardly any reason to have passed any ex parte ad-interim restraint order against the petitioner in the said appeal. Since the original order suffered from patent lack of jurisdiction, the subsequent order modifying the original order was also without any jurisdiction, particularly as it, in a manner of speaking, is permitting the petitioner to raise construction.

3. Because of the withdrawal of the impugned order this petition has been rendered infructuous and is disposed of as such.

CMP No. 643 of 2006.

Infructuous.