

Latest HLJ 2025 (HP)(1) 268

Before Shri Kamlesh Kumar Pant, I.A.S Financial Commissioner

Himachal Pradesh, Shimla.

Revision Petition No.94/2025 Date of decision 13.02.2025. Sh. Matha Ram ...Petitioner

V/s

Sh. Nitin Kumar & Others ...Respondents State of H.P. through District Collector, Shimla, H.P.
..Proforma Respondent

H.P. Land Revenue Act, 1954 Section–17–Revision–Correction of revenue entries–Challenged–Existence of Kuhal and the appropriateness of the revenue record–Held–That, the revenue records should reflect the presence of Kuhal in the area under dispute–Civil Court’s order did not address the existence of the Kuhal, making it irrelevant to the revenue records–Revenue record restored as per the settlement operation–Ld. Divisional Commissioner order was based on a thorough review of the Civil Court’s judgment, field report and applicable laws and same is upheld–petition dismissed. (Paras 3 and 4)

Parties represented by:

For the Petitioner: Mr. Rajender Kumar, Advocate.

Order:- This revision petition has been preferred under section 17 of the H.P. Land Revenue Act, (hereinafter referred to as “the Act”), against the order dated 28.10.2024 passed by the Ld. Divisional Commissioner, Shimla Division, Shimla (hereinafter to as ‘the Ld. Commissioner’) in Appeal No.186/2017, whereby the Ld. Commissioner has accepted the appeal of the present respondents, by setting aside the order dated 20.12.2016, passed by the Ld. Collector, Settlement Shimla Division, Shimla, in case No.159/2010 titled as Shri Matta Ram Vs. State of H.P.

2. This matter was taken up for hearing on admission and stay application on the request of the Ld. Counsels for the petitioner on 07.02.2023, when after hearing the Ld. Counsel for the petitioner, the same was reserved for orders. The Ld. Counsels for the petitioner, while reiterating the grounds of revision petition argued that the petitioner has filed an application for correction of revenue entries qua land hearing Khasra No.154, situated in Mauza Dhalli, Tehsil Theog, District Shimla, H.P. before the Ld. Settlement Collector, Shimla Division, Shimla (hereinafter referred to as ‘the Ld. Collector’), who has accepted the same vide order dated 20.12.2016, whereby it was ordered to remove blue line shown in the aforesaid land. He further asserted that the same order was passed on the basis of order of the Civil Court in Civil Suit No.2019-1 of 1999 titled as Zalaim Singh and others vs. State of H.P. & Ors., whereby the present respondents were restrained perpetually from tapping water from the suit land. He further argued that though the parties had further filed an appeal (No.62-S/13) of 2004) against the said order before the Additional District Judge, Shimla, which was dismissed. The Ld.

3. I have considered the argument put forth on behalf of the petitioner and have gone through the contents of the revision petition as well as the impugned order dated 28.10.2024, passed by the Ld. Commissioner, in Appeal No.186/2017. From the perusal of the impugned order it is clear that the Ld. Commissioner has kept in view the judgment of the Civil Courts as well as record to the Ld. Collector, while accepting the appeal. From perusal of the concluding part of the Ld. Collector, as recorded in para 2 of the impugned order, it is clear that the Ld. Collector had accepted the correction application of the present petitioner, on the basis of judgment dated 07.04.2023 delivered by the Civil Court in Civil Suit No.219-I of 99. Further, the order of the Ld. Collector makes it clear that the report of field agencies cannot be accepted keeping in view of the judgment of the Civil Court. Though the petitioner has claimed that report of Kanungo is in his favour, but, in para 6 of the order, the Ld. Commissioner, has clearly mentioned that in report dated 19.04.2003 of the Kanungo. It has been stated "???? ?? ??? ????? ??? ????? ???? ?? ?? ??? ??? ????? ?? ?? ????? ??????? ??? ??????? ?? ?? ?? ?? ??? ????? ??????? ??? ??????? ?????????????? ??????? ??????? ??? ??"? The Ld. Commissioner has also taken into consideration the report dated 5.2.2016 made by Kanungo, wherein it has been mentioned that " "???? ?? ????? ??? ?? ??????? ??? ????? ?0 155 ?? ??????? ??? 18.20 ??? ????? ?? ????? ?? ????? ????? ?? ????? ??????? ??????? ?? ?? ? 10 ????? ????? ??? ????? ?0 155 ?? ??????? ???????200 ?0 154 ??? ????? 35 ??????0 ??? ????? ?? ??? ??? ? 38 ?0 ?? ????? ?? ????? ?? ??? ????? ??????? ????? ?? ????? ????? ????? ????? ????? ????? ????? ??" The Ld. Commissioner has further made it clear that as per Naksha Rivajaat Aabpashi, there is a mention of Dhali naale ki Kuhal" in Khasra No.169 and Khatauni No.54 and in the column No.7, it is recorded as Aabpash shuda. The order further states that Khasra No.156,157,158,161,164,159,160,163,167,162 and 168 found mention in the said Kaksha Rivajaat Aabpashi and these numbers are being cultivated by Kulah, originates from Dhali nahal. This clearly shows that Kuhal is there on spot and thus, the Ld. Commissioner has rightly ordered to restore the revenue record as prepared during the settlement operation. The Ld. Commissioner has also rightly

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Commissioner in para 10 clearly states that "????????? ?????? ???? ?????? ???? ?????????
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4. As far as the claim of the petitioner that the order of the Ld. Commissioner are against the judgment of the Civil Court, is concerned, the order of the Civil Court has been kept in view by the Ld. Commissioner and he has rightly adjudicated the same by observing that the Court decision has nowhere made any comment on existence or non-existence of Kuhal and therefore the decision of Civil Court has no bearing on the record. Thus, the Ld. Commissioner has rightly adjudicated upon the matter after keeping in view the judgment of the Civil Court as well as record available on file and the relevant provisions of law applicable in the matter and has passed a very detailed and well reasoned order on 28.10.2024.

5. Keeping in view the aforesaid discussed I do not find any reason to call for the record of the Courts below by invoking revisional jurisdiction under Section 17 of the Act. The impugned order dated 28.10.2024, passed by the Ld. Divisional Commissioner in Appeal No.186/2017 is hereby upheld. Accordingly, the present revision petition is dismissed in limine alongwith miscellaneous application(s), if any.

6. Since, the matter was reserved for order after hearing on 07.02.2023, this order be communicated to petitioner through the Ld. Counsel, immediately. This file be consigned to record room after due completion.