



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.9002 of 2024
Reserved on: 15.10.2025
Decided on: 31.10.2025

Sh. Ram Lal Sharma ... Petitioner
Versus
State of Himachal Pradesh & another ... Respondents

Coram
Hon'ble Mr. Justice Ajay Mohan Goel, Judge.
Whether approved for reporting?¹ Yes

For the petitioner : Mr. Deepak Gupta, Advocate.
For the respondents : Mr. Rajpal Thakur, Additional Advocate General, for respondent No.1.
Mr. Mukul Sood, Advocate, for respondent No.2.
Mr. Arjun Lall, Advocate, for the intervenor.

Ajay Mohan Goel, Judge

By way of this petition, the petitioner has, inter alia, prayed for the following relief:-

“i) A writ of mandamus may kindly be issued against the respondents, directing the respondent No.2 to allot the shop having the same and similar size in the newly constructed Complex under the Smart City Project which is either equivalent to or bigger than the Shop No. 87 in possession of petitioner and further the writ of certiorari may also be passed against the respondents, quashing the allotments made illegally and malafidely without

¹ Whether reporters of the local papers may be allowed to see the judgment?

adhering to the principle of natural justice by proposing to give the shop No 7 having lesser area by the respondent No.2 as per his own choice and desire without following due process of law and acting in malafide manner in the interest of justice, equity and fair play."

2. The case of the petitioner is that he is running a medicine shop and Blood Testing Lab in shop No.87 on the Indira Gandhi Medical College-Sanjauli Road in Shimla for the last 60 to 70 years. The shop is owned by the respondent-Corporation. According to the petitioner, the covered area in his possession was about 160 square feet and the front of the shop was 8' x 5' in width. Respondent-Municipal Corporation under the Smart City Mission proposed to demolish the existing shop of the petitioner alongwith other shops to construct a new complex. The petitioner was called upon by the Corporation to vacate the premises in possession for the purposes of re-construction of the same alongwith other shops and in lieu thereof he was assured that he would be given the same area which was in his possession after reconstruction.

3. The grievance of the petitioner is that now the total area that is being handed over to him is much less than what was in his possession earlier and therefore, he is not in a position to run the medicine shop as well as the Laboratory, for which there is a

minimum area required and area in possession of the petitioner is less than that. According to the petitioner, the area proposed to be put in possession of petitioner i.e. Shop No.7, is measuring 110 square feet. It is in this backdrop, the petitioner has approached this Court, praying for the relief mentioned hereinabove.

4. In response to the petition, the respondent-Corporation has taken the stand that the petitioner is not a lessee of the Corporation, but a trespasser of Stall No.87, measuring 42 square feet built upon part of land bearing khasra No.240, Mauja Sanjauli, Shimla. He illegally and unauthorizedly increased the area of the said Stall to the extent of 145.90 square feet. The area measuring 42 square feet at the first instance was leased out to Shri Beyant Singh and not to the petitioner in the year 1952 for a period of one year. The ownership of the land is of the State Government and the possession is of the Municipal Corporation. The Stall was sublet by Beyant Singh to the petitioner in the year 1978 unauthorizedly by violating the terms of the Lease Deed. The lease in favour of Beyant Singh was cancelled by the House Resolution of the Corporation, dated 30.06.1978. When the Corporation found that the petitioner was in occupation of the Stall illegally, a notice was issued, on 17.02.1996, directing Beant Singh to hand over the empty

possession of the Stall. In Para-3 of the reply, it has been mentioned that Stall No.7 mentioning 110 square feet has been allotted to the petitioner vide Office Letter dated 22.08.2024 on temporary basis subject to the final outcome of the Court cases pending adjudication in the Court of Collector, Municipal Corporation, Shimla, filed against the petitioner under Sections 5 and 7 of the Himachal Pradesh Public Premises Act, 1971 and other litigation, details whereof are given therein.

5. During the pendency of this petition, an application, i.e. CMP No.5761 of 2020, was filed by Shri Harsh Kukreja for being impleaded as a party respondent, *inter alia*, on the ground that he is the grand-son of original allottee Shri Beyant Singh. After the death of Shri Beyant, his father Jaspal Singh Kukreja was depositing the rent of the shop in question and as the applicant was the legal heir of the original allottee, he was entitled to be heard on the issue relating to the legal status of the petitioner over the demised premises. It was averred in the application that the petitioner had no right over the land in issue and as there was other litigation which was pending between the petitioner and the successors of late Shri Beyant Singh, therefore, the applicant be impleaded as a party respondent. In terms of order dated 14.10.2025, said application

was allowed and the applicant was allowed to intervene in the matter.

6. I have heard learned Counsel for the parties and have carefully gone through the pleadings as well as other documents on record including certain affidavit, and counter affidavits which have been filed in terms of the directions passed by this Court.

7. At the very outset, this Court would like to make an observation that in the course of the adjudication of this writ petition, this Court is not deciding the status of the petitioner over the demised premises, that is to say, as to whether his possession thereupon, whether earlier or as on today is authorized possession or whether he is a trespasser thereupon. In light of the fact that there are litigations pending *intra* the parties on this issue, the adjudication in the present writ petition is being made by this Court with this clear cut observation that this adjudication will have no bearing on the other proceedings, which shall be decided on their own merit. It is further being observed at this stage itself that the petitioner shall not cite this judgment in either of the proceedings to put-forth his stand qua his status over the land in issue, because in the adjudication of this case this Court is restricting itself to a very limited issue, i.e., whether the petitioner has a right to be put in

possession of the same area of which he was when the premises were got vacated from him by the Corporation for re-construction or not.

8. According to the petitioner, before the premises were demolished for the purpose of re-construction, he was in possession of an area of 160 square feet. According to the respondent-Corporation, the area in possession of the petitioner, which as per the said respondent was illegal and unauthorized, was 145.90 square feet. This figure has been taken by the Court from the reply filed by the respondent-Corporation and this Court for the purpose of adjudication of this petition, takes this to be the area in possession of the petitioner which was vacated.

9. As it is not in dispute that the petitioner indeed was in possession of at least 145.90 square feet area, may be unauthorizedly, when he was asked by the respondent-Corporation to vacate the same for the purpose of re-construction under the Smart City Mission, this Court is of the considered view that after re-construction of the shops, respondent-Corporation was obliged to put the petitioner back in possession of at least an area comprising 145.90 square feet.

10. This is for the reason that the petitioner was not ousted

from the premises as a result of some adjudication made by either a Quassi Judicial Authority or a Judicial Authority, but he voluntarily vacated the premises on the asking of respondent-Corporation for the purpose of re-construction.

11. Further, the very fact that after re-construction, a Stall measuring 110 square feet is being offered to the petitioner is evident of the fact that the premises in issue in possession of the petitioner were vacated by the petitioner on the holdingout of the Corporation that he would be again put in possession after re-construction. The respondent-Corporation which got the premises vacated from the petitioner on the promise of the petitioner being put back in possession of the premises after re-construction, cannot now be allowed to raise the issue of the petitioner being in unauthorized possession or having trespassed over the property of the State in these proceedings.

12. Herein, once it stands established from the reply of the Corporation that the petitioner was in possession of 145.90 square feet of area by way of a Stall which was vacated by him on the asking of the Corporation, who assured the petitioner to put him back in possession of the premises after re-construction, the Corporation is obliged to do so, subject to the outcome of the litigations going on

between the parties. The Corporation cannot deny at least an area 145.90 square feet to the petitioner, however, because the Corporation is obliged to put the petitioner back in possession of 145.90 square feet of area, the same will not confer any legal status upon the petitioner of him being in authorized possession of these premises and his possession thereof shall be subject to the outcome of all the legal proceedings. To this effect, the petitioner will have to give an undertaking.

13. Accordingly, in light of above observation, this writ petition is partly allowed and respondent No.2 is directed to hand over possession of at least 145.90 square feet of area to the petitioner. However, before possession thereof is taken by the petitioner, he will have to file an undertaking that the handing over of possession of said area by the Corporation shall abide by the adjudication of the litigations which are pending between him and the respondent-Authorities as well as private individuals and the petitioner will not cite this judgment in proof of the legitimacy of his possession over the premises in issue. It is further clarified that as far as the issues flagged by respondent No.3 are concerned, the judgment of this Court should not be construed as an answer in favour of the petitioner and against respondent No.3 and the issues

which exist or may exist between the petitioner and respondent No.3, shall be decided independently and as already observed hereinabove, this judgment will have no bearing thereupon. In the event of an undertaking in terms of this judgment being filed by the petitioner before Municipal Commissioner within two weeks from today, the petitioner shall be put in possession of the property measuring 145.90 sq. feet by the Corporation on payment of user charges within four weeks thereafter. With these observation, the petition stands disposed of. Pending miscellaneous application(s), if any also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

October 31, 2025
(Rishi)