(2026:HHC:25076-DB)

2026:HHC:25077

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.7979 of 2022
Decided on: 25.06.2026

State of Himachal Pradesh **.....Petitioner**

Versus

M/s Hindustan Tin Works Limited **.....Respondent**

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?[1] Yes

For the Petitioner: Ms. Menka Raj, Deputy Advocate General.

For the Respondent: Mr. N.K. Bhalla, Advocate.

Jyotsna Rewal Dua, Judge

The respondent was granted permission to purchase 06-11 bighas of land situated at Mauja Katha, Tehsil Nalagarh (now Baddi), District Solan, H.P. This permission was granted to set up an industrial unit within a period of two years. The respondent could not use the land for the said purpose within the stipulated period. It applied for extension of period. Its request was allowed by the State government on 08.06.2009 by granting one year extension. Since industry was not set up even in the extended period, the respondent applied for further extension, which was rejected. Accordingly, proceedings under Section 118 of the H.P. Tenancy & Land Reforms Act, 1972 (the Act in short) Act were initiated against the respondent on 22.09.2011.

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[1] Whether reporters of print and electronic media may be allowed to see the order? Yes.

(2026:HHC:25076-DB)



2026:HHC:25077

The stand taken by the respondent was that land had actually been put to use as per law; The development and leveling work was commenced; Necessary protection had been put up, retaining wall had been raised, bore-well had been dug and industrial shed had constructed.

On coming to the conclusion that the respondent had not actually put the land to use for the purpose for which, it is granted to him, the Collector, District Solan vide order dated 30.04.2016 ordered vestment of land in the State government. The aforesaid order was set-aside by the Divisional Commissioner on 18.03.2019 allowing the appeal preferred by the present petitioner.

Petitioner- State carried the matter further by preferring revision petition before the Financial Commissioner (Appeals), H.P. The revision petition was disposed of on 01.12.2021 by remanding the matter to the Collector for a fresh decision.

It is in the above circumstances, State has preferred the instant petition, feeling aggrieved against the order dated 18.03.2019 passed by the Divisional Commissioner, Shimla and the order dated 01.12.2021 passed by Financial Commissioner (Appeals) whereby the vestment of respondent’s land in petitioner’s favour was held to be illegal and the matter was remanded to the

District Collector, Solan with direction to consider and decide afresh in accordance with law.

2. Heard & considered the case file.

3. Section 118 of the H.P. Tenancy and Land Reforms Act pertain to transfer of land to non-agriculturists, its relevant portion is as follows:-

> **118. Transfer of land to non-agriculturist barred.** (1) Notwithstanding anything to the contrary contained in any law, contract, agreement, custom or usage for the time being in force, but save as otherwise provided in this chapter, no transfer of land (including sales in execution of a decree of a civil court or for recovery of arrears of land revenue) by way of sale, gift, will, exchange, lease, mortgage with possession, creation of a tenancy or in any other manner shall be valid in favour of a person who is not an agriculturist.
>
> (Explanation. For the purpose of this sub-Section, the expression "transfer of land" shall not include-
>
> i) transfer by way of inheritance;
>
> ii) transfer by way of gift made or will executed, in favour of any or all legal heirs of the donor or the testator, as the case may be;
>
> iii) transfer by way of lease of land or building in a municipal area;
>
> but shall not include-
>
> (a) a benami transaction in which land is transferred to an agriculturist of a consideration paid or provided by a non-agriculturist; and
>
> (b) an authorization made by the owner by way of special or general power of attorney or by an agreement with the intention to put a non-agriculturist in possession of the land and allow him to deal with the land in the like manner as if he is a real owner of that land.
>
> "**(2) Nothing in sub-Section (1) shall be deemed to prohibit the transfer of land by any person in favour of**-

(a) a landless laborer; or

(b) a landless person belonging to a scheduled caste or scheduled tribe; or

(c) a village artisan; or

(d) a landless person carrying on an allied pursuit; or

(dd) a person who, on commencement of this Act, worked and a continues to work for gain in a estate situated in Himachal Pradesh; for the construction of a dwelling house, shop or commercial establishment in a municipal area, subject to the condition that the land to be transferred does not exceed-

(i) in case of a dwelling house-500 square Meters; and

(ii) in the case of a shop or commercial establishment- 300 square meters:

Provided that such person does not own any vacant land or a dwelling house in a municipal area in the state.

(e) the State Government or Central Government, or a Government Company as defined in section 617 of the Companies Act, 1956, or a Company incorporated under the Companies Act, 1956, for which land is acquired through the State Government under the Land Acquisition Act, 1894 or a statutory body or a corporation or a board established by or under a statute and owned and controlled by the State of Central Government; or

(f) a person who has become non-agriculturist on account of-

(i) acquisition of his land for any public purpose under the Land Acquisition Act, 1894; or

(ii) vestment of his land in the tenants under this Act; or

(g) a non-agriculturist who purchases or intends to purchases land for the construction of a house or shop, or purchases a built up house or shop, from the Himachal Pradesh Housing and Urban Development Authority, established under the Himachal Praedesh Housing and Urban Development Authority Act 2004, or from the Development Authority constituted under the Himachal Pradesh Town and Country Planning Act,

> 1977 or from any other statutory Corporation set up for framing and execution of house accommodation schemes in the State under any State of Central enactment; or
>
> (h) a non-agriculturist with the permission of the State Government for the purposes that may be prescribed:
>
> Provided that a person who is non-agriculturist but purchase land either under (Clause (dd) or clause (g) or with the permission granted under clause (h) of this sub-Section, shall, irrespective of such purchase of land, continue to be a non-agriculturist for the purpose of the Act.
>
> Provided further that a non-agriculturist (who purchases land under clause (dd) or) in whose case permission to purchase land is granted under clause (h) of this sub-Section, shall put the land to such use for which the permission has been granted within a period of two years or a further such period not exceeding one year, as may be allowed by the State Government for the reasons to be recorded in writing to be counted from the day on which the sale deed of land is registered and if he fails to do so or diverts, without the permission of the State Government, the said user for any other purpose or transfer by way sale, gift or otherwise, the land so purchased by him shall, in the prescribed manner, vest in the State Government free from all encumbrances."

Learned Additional Advocate General highlighted the second proviso to sub-Section 118(2) to submit that same placed an obligation upon the respondent to put to use the property/land within two years or further such period not extending one year as may be allowed by the State government for the reasons to be recorded in writing from the date on which the sale deed of the land was registered and in case the respondent failed to do so or diverted without the permission of the State government, the land so purchased by it was to vest in the State

Government from all encumbrances. Prayer was made for quashing of the impugned orders. Learned counsel for the respondent while defending the impugned orders also highlighted para 4 of the reply filed by the respondents wherein reference has been made to several approvals/no objection certificates issued to the petitioner in furtherance of setting up the industiral unit. As per pleadings, the Electricity and water connection No Objection Certificate was granted to the respondent on 26.11.2014, single window clearance was granted on 16.12.2014, the H.P. State Pollution Control Board issued provisional certificate on 03.02.2015, consent to establish was granted by the H.P. Pollution Control Board on 10.03.2015, consent to operatate was granted on 25.04.2015, No Objection Certificate was issued by the Fire Department on 06.05.2015, power release certificate was issued on 18.05.2015, consent to operate was renewed on 29.09.2016, GST application for enrollment of existing tax payer made on 30.03.2017, fire NOC was renewed on 11.12.2017, land utilization was certified on 19.01.2019, consent to operate was further renewed on 15.11.2021 and Fire NOC was renewed on 26.08.2022.

4. The Divisional Commissioner as also the Financial Commissioner have justly interpreted ***Ravinder***

Chauhan and others versus State of H.P.[2] to hold that the vestment could not be automatic. The failure to put to use has to be on account of conscious default, negligence or refusal on the part of a person concerned. The circumstances of non-compliance for reasons beyond grantee's control or due to the fact that it was incapable or impossible to performe due to operation of other provisions of law in force, would not result in vesting of land with the State. After going through the facts of the case, it was observed by the Divisional Commissioner as under:-

> *"9. The present case revolves around the interpretation of the words "shall put the land to such use" as employed in second proviso to sub section (2) of Section 118 of the Act. The words "shall put the land to such use" as used in second proviso to sub section (2) of section 118 have not been defined in the Act. The meaning to these words has to be assigned by following the settled principles of statutory interpretation. A plain and precise meaning has to be assigned to these words to give effect to the provision of second proviso to sub section (2) of section 118 of the Act. In Oxford dictionary the word "put" has been assigned a meaning as "move something to". Further the word "to" has been assigned a meaning as "in the direction so as to reach a particular state" Thus the words "put the land to use as used in the second proviso can only mean to move in the direction to use the land so as to reach a particular stage i.e. to establish the project. From the above, it is clear that from the precise and plain words*

[2] AIR 1999 HP 43

used in the second proviso, the legislative intention is that within statutory period of two years or within extended period of one year, the purchaser has to move in the direction to use the land for the purpose for which it was purchases so as to form an opinion in the mind the State Govt. who had granted permission to purchase land to the effect that the purchaser is ready and willing to put the land to such use for which permission was granted and nothing else. This proviso nowhere provides for bringing into existence and to make the project operational within statutory period of two years on the land. The words "put to use" cannot be given the extended meaning to bring into operation the project within period of two years. Within two years, the purchase has to take steps in the direction of utilizing the land to disclose its intent that he is ready and willing to establish the project said and nothing more. Had the legislative intent been that the land has to be used completely for the purpose for which permission was given within statutory period then in place of words "shall put the land to such use" the words "shall use the land" should have been employed in the said proviso. There is substantial distinction in the meaning of words "shall put the land to use and the words "shall use the land". The legislative while enacting second proviso to sub section (2) of Section 118 has intentionally used the words "shall put the land to use" instead of words" shall use the land" because Legislative was aware of the fact that after permission to purchase the land is given there are number of procedural formalities which are to be completed before steps are taken to establish the project/industry such as preparation of building plans, various no objection certificates from concerned departments of the State, Essentiality Certificates, Sanction of building plans from the competent authorities. These procedural formalities take a long time, may be, due to bureaucratic delay or some other reasons which may

not be under the control of the person establishing the project which may also be due to statutory impediments including operation of other laws.

10. The findings recorded by the Ld. District Collector that the land has not been used for the purpose for which permission was given within statutory period is erroneous and wrong. The Ld. District Collector while passing the impugned order has not understood the real legislative intent behind second proviso to sub section (2) of Section 118 and particularly the purpose of permitting a non-agriculturist to purchase land. The real legislative intent is that the land must be used for the purpose for which permission was given and vestment of land is not automatic on the expiry of two years or the extended period as may be granted by the State Govt.

11. The Instruction regarding excluding the period for which a person was prevented from putting the land into use due to statutory hindrance of some action of the Government, from two/three years as stipulated in the H.P. Tenancy and Land Reforms Act, 1972 issued by the Govt. of H.P dated 5th February 2016 which provides as under:-

> *"However, certain cases have been brought to notice of this Department where permission have been granted under Section-118 of H.P. Tenancy and Land Reforms Act, 1972 but the buyers have failed to put the land into use as provided under proviso mentioned above due to some statutory hindrances or operation of other provisions of law in force or a policy or any other action on the part of Government itself. Due to this reason, the prescribed time period in these cases has expired. Such affected firms/applicants have represented to the Government through concerned Department(s), who have issued essentiality*

certificates in their favour. The relevant cases for departments have also recommended these consideration, with cogent reasons and justification to consider these sympathetically and allow them to utilize the land for the purpose for which permission was granted as there was no fault on their part in its non utilization."

A Division Bench of the Hon'ble High Court of Himachal Pradesh in CWP No. 254 of 1995 (AIR 1993 H.P. 43), titled "Ravinder Chauhan and others Vs. State of Himachal Pradesh and others" decided on 18.09.1998, while considering and interpreting the provision of second proviso sub section (2) of section 118 of the Act ibid has held as under:-

> "*In our view when the statute contemplated the failure on the part of the person, who has been granted with permission to purchase, as a condition precedent for bringing into the force of the operation of the vesting clause, the failure should be on account of the conscious default, negligence or refusal on the part of the person concerned and where the non compliance was for reasons beyond his control or due to the fact that it was incapable or impossible of performance due to the operation of other provisions of law in force and that the authorities, who accorded the permission with such conditions, which are not capable of being complied with and performed and were equally at fault, it is not permissible for the respondents or for that matter anybody from public including the petitioners to insist or assert that despite the obvious and for no fault of the 6th respondent, he should be condemned as having failed to comply with the conditions, that which otherwise he could have complied with, and thereby take over his property by enforcing the vesting clause engrafted in the second proviso.*"

12. The suit land was allotted to M/s Vrla Manufacturing Company. for the construction of an industrial unit. The objective was to support and encourage industrialization in the State of H.P. which, in turn, would generate employment and revenue for the State Government. The appellant has invested considerable amount to purchase the land as well as to make operational the unit for which purpose the permission has been grantedby the State Govt. It is evident from the revenue record i.e Jamabandi for the year 2008-09 that the classification of land has been recorded as "Gher mumkin Factory". Therefore, it reveals that the report made by the patwari is not clear about the existence of the Factory on spot. There is contradiction between the revenue record and the report of patwari. The concerned Kanoongo as well as Tehsildar Kasauli have admitted their statements which is placed on lower court case file that without visiting the spot they made the report on the basis of report of patwari, and the patwari has also admitted that he did not informed to appellant at the time when he visited the Spot. The impugned order overlooks the said fact and also overlooks statement of the appellant that as on date the industrial unit is in operation which is providing employment and generating revenue for the State of H.P.

13. The record of case file and the photographs placed on record clearly reveals that the suit land has been put in use by the appellant for which permission was granted by the Govt. of H.P. after obtaining the NOCs from the competent authorities. No proper inquiry was got conducted by the Deputy Commissioner Solan and merely on the letter No. Ewc-B-F-(10)-175/2007 Part-II dated 10.9.2010 from the Government of H.P. the proceedings were initiated against the appellant.

14. The provisions of under Section 118 of the H.P. Tenancy and Land Reforms Act are very stringent and

every caution should have been exercised while initiating the proceedings under Section 118 of the Act The provisions in the Act are for the confiscation of the land along with the semi built/built structures of any running business/residence on the said land in dispute, which is purchased by the individual persons/company by spending their own money under this Act The confiscation of the movable/immovable property of the said land owned by the individual is without any compensation. Therefore, the District Collector has to take utmost due care while considering all the aspects of information related to the case. providing proper opportunity appreciation of evidence of the case."

The Financial Commissioner while affirming the above view held as under: -

"8. In the instant case, permission was granted in favour of the respondent on 19.6.2007 to purchase 6-11 bighas of land, detailed above, for setting up an industrial unit. Thereafter, on the request of the respondent the Government vide letter dated 8.6.2009 had provided extension for utilization of the land for the permitted purpose. It is pertinent to note that the State Government has issued instructions, vide letter dated 15th February, 2016, wherein it has been decided that the period of 2 years extendable by another one year to "put the land to use as provided under second proviso of Section 118 (2)(h) of the H.P. Tenancy and Land Reforms Act, 1972, should be counted after excluding the period for which a person was prevented from putting the land into use due to some mandatory statutory hindrances or operation of other provisions of law in force or policy or any other such action on the part of the Government itself. The perusal of the order of the Ld. District Collector, Solan dated 30.4.2016 shows that he has not determined such statutory

hindrances in accordance with the instructions issued by the State Government, while taking final decision in the matter. This point has also been missed out by the Ld. Divisional Commissioner, Shimla. Therefore, it would be appropriate to remand the matter to the District Collector, Solan with the direction to decide the matter afresh keeping in view the instructions issued by the State Government vide letter dated 15.2.2016 and subsequent instructions, if any.

9 Keeping in view the observations made herein above, the matter is remanded to the District Collector, Solan, with the direction to consider the matter afresh in accordance with the instructions dated 15.2.2016 and subsequent instructions, if any, issued by the State Government Accordingly, the revision petition is disposed off alongwith miscellaneous application, if any."

Reliance upon ***Ravinder Chauhan*[3]** was justly placed for holding that merely because respondent could not start the actual construction of the resort within two years from the date of execution of the sale deed for which he was granted permission under Section 118 of the Act would not result in automatic vestment of the land in the State. Here it would also be pertinent to take note of ***M/s Springdale Resorts and Villas Pvt. Ltd. versus State of Himachal Pradesh & Others***[3] wherein while relying upon ***Ravinder Chauhan*[3]** it was observed that the words "shall put the land to such use for which the permission has been granted" are

[3] CWP No.3363/2025, decided on 26.09.2025

not to be interpreted myopically. Period of two years prescribed in the Statute cannot be construed in myopic manner so as to mean that everything with regard to the project has to be completed before the expiry of the period. The intent of legislation behind Section 118(2) was to ensure that steps are taken to put the land to use for the purpose for which the permission is granted before the expiry of the period prescribed in the Statute. The Court also took judicial notice of the fact that various permissions are granted under Section 118 of the Act for big and small projects by the State Government. For coming up of these projects, many further permissions/approvals/ sanction are required from several departments/ authorities. Various other formalities are also needed to be completed. The actual construction work can start only after all the permissions are in place in favour of the proponent. Therefore, if the words “shall put the land to such use for which permission has been granted” are given strict interpretation i.e. the entire project activities shall have to be completed from A to Z within the period mentioned in the second proviso to Section 118(2) of the Act, in such scenario majority of the projects would fall in the trap paving way for vestment of the land in State. Therefore, only meaningful interpretation can be given to these words. That beneficiary of the permission has to demonstrate taking cogent and meaningful steps for putting the land to use for

the purpose for which the permission was granted and if this test is satisfied, the same has to be construed and read that the permission holder has put the land to such use for which the permission was granted. In the instant case, the respondent has taken steps for putting the land to use. It is not the case of the petitioner that respondent had diverted the land for any other use. The mechanical order passed by the District Collector ordering vesting of respondent's land in the State on the ground of it having failed to construct resort within period of two years was rightly set-aside by the higher authorities. The impugned orders therefore do not call for any interference. Petition is dismissed. Pending application(s), if any, also stand disposed of accordingly.

Jyotsna Rewal Dua
Judge

June 25, 2026
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