



IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA

CWP No.1262 of 2020

Decided on 27th October, 2025

Sachin Shridhar and others

...Petitioners

Versus

Himachal Pradesh Housing and Urban Development
Authority

...Respondent

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

¹Whether approved for reporting? Yes

For the petitioners : Mr. Suneet Goel, Senior
Advocate, with Mr. Vivek Negi,
Advocate.

For the respondent : Mr. Roop Lal Sharma, Advocate,
vice Mr. Jeevesh Sharma,
Advocate.

Ajay Mohan Goel, Judge (*Oral*)

CMP No.7425 of 2025

By way of this application, a prayer has been made for modification of order dated 09.12.2024, in terms whereof, the petitioners were directed to place on record the demarcation report.

2. Learned Senior Counsel for the applicants/petitioners submits that as the demarcation reports are already appended

with the main writ petition, therefore, the order be modified.

3. Ordered accordingly.

4. Order dated 09.12.2024 is modified and petitioners are exempted from again placing on record the demarcation reports.

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5. By way of this writ petition, the petitioners have prayed for the following reliefs:-

a. *“Issue a writ in the nature of certiorari or any other appropriate writ/order/direction quashing the impugned letter of communication dated 14.01.2020.*

b. *Issue a writ in the nature of mandamus or any other appropriate writ/order/direction thereby directing respondent No.1 to immediately release a sum of Rs 3,76,77,000/- (Rupees Three Crores Seventy Six Lac Seventy seven Thousand Only) in favour of the petitioners along with interest @9% per annum on account of delayed payment accruing from 30.08.2019.”*

6. The grievance of the petitioners is that entire sale consideration post execution of sale deed has not been paid to the petitioners on the pretext that there is a defect in the title of the land as allegedly the sold out area is not in consonance with what was proposed to be purchased by the petitioners, that is to say that it is less than the agreed area.

7. Learned Senior Counsel for the petitioners has drawn the attention of the Court to the documents appended with the petition as well as the reply and also the impugned order and submitted that the impugned order is bad in law for the reason that the so called alleged shortfall of 60 to 70 bighas cannot be termed as a defect in the title of land and, therefore, as Clause 4 and 5 of the sale deed, which have been referred to in the impugned Annexure P-1 are not attracted at all in the present case, accordingly, the impugned communication is liable to be set aside and the respondent is liable to be directed to pay to the petitioners the balance payment. He has also submitted that perusal of sale deed demonstrates that possession of entire sold land was taken over by the respondents.

8. On the other hand, learned counsel for the respondent-Board has submitted that in terms of Annexure P-3, duty was cast upon the petitioners to have gotten the entire land demarcated, which was not done by the petitioners and as after the sale deed was executed, shortfall of 60 to 70 bighas of land was discovered, therefore, the respondent-Board rightly issued Annexure P-1 and withheld the balance payment to the

petitioners.

9. In counter, learned Senior Counsel for the petitioners submits that the land was demarcated and the demarcation reports are already on record from page-55 onwards and that otherwise also after the sale deed was executed, the respondent was bound to honour the same.

10. Having heard learned Senior Counsel for the petitioners as well as learned counsel for the respondent and having gone through the impugned order, this Court finds that there is perversity writ large on the face of it as far as the impugned order is concerned.

11. It is not in dispute that the sale deed has been executed between the petitioners and the respondent. It is also not in dispute that the respondent-Board is withholding certain payments of the petitioners allegedly on the ground that there is a violation of Clause 4 and 5 of the sale deed entered into between the parties.

12. The sale deed entered into between the parties is appended with the petition as Annexure P-6. A perusal thereof demonstrates that land measuring 570 bighas in Mauza Sohala,

Up-Sampda Kathala Uppla and Up-Sampda Nichla Kathla, Sub Tehsil Narag, District Sirmour, H.P., was sold to the respondent in terms thereof for the consideration referred therein. The sale deed is dated 29.08.2017. The impugned communication Annexure P-1, reads as under:-

“From

CEO-cum-Secretary, H.P. Housing & Urban Development Authority, Nigam Vihar, Shimla-171 002.

To

Shri Sachin Shridhar (Also acting on behalf of other land owners) S/o Late Sadhu Ram Sharma, R/o A-1/90 Safdarjung Enclave, 3rd Floor, New Delhi 110029.

Subject:- Sale Deed Certificate bearing No. In-HP02318515567762P dated 28-08-2017 relating to agricultural land measuring 570 Bighas located at Mauja Sohala, Up-Sampda, Kathala Uppla and Up-Sampda Nichla Kathla, Sub-Tehsil Narag, District Sirmour, H.P.

Sir,

Please refer to your letter dated 17-09-2019 on the subject cited above.

On the demarcation of land approximately sixty-seventy bigha land is falling short, out of the 570 bighas land which had been purchased by HIMUDA. However,

the Sale Deed page No. 7, Clause (4) & (5) states as under:-

- Clause (4) That if there will be any defect in title of land of the SELLERS in that event the SELLERS shall make all loss good suffered by the Purchaser.
- Clouse (5) That the SELLERS hereby undertake to indemnity the PURCHASER in case any defect of title is found in the said land.

Since, it is amply clear that "Title of land is defective, as such you and other land owners have committed a breach of Clause (4) and (5) of the Sale Deed. It is your legal obligation to make good the entire land promised to be sold as per the Sale Deed to this Authority, before balance payment can be made. Now, you and other land owner(s) are called upon to explain as to why no legal action be initiated against you for breach of Terms and Conditions of the Sale Deed.

Executive Director,
HIMUDA, Shumla-2."

13. Thus, in terms of this communication, the balance of payment is being denied to the petitioners on the ground that there is a breach of Clause 4 and 5 of the sale deed on the part

of the petitioners. Clause 4 and 5 of the sale deed, which stand quoted hereinabove provide that if there will be any defect in title of land of the sellers, then, in that event the sellers shall make all the loss good suffered by the purchaser and that the sellers undertakes to indemnify the purchaser in case any defect of title is found in the said land.

14. This Court is of the considered view that defect in title of land cannot be confused with the alleged shortfall in the total land sold by the petitioners to the respondent. Defect in the title of land would entail that the petitioners did not have a clear cut title so as to enter into any transaction qua that property with the respondent. In other words, the petitioners misled the respondent by portraying that they had a clear cut title over the suit land free from all encumbrances etc., but subsequently, the respondent found out that this undertaking or holding out of the petitioners was false.

15. In fact it is also relevant to refer to Clause No.1 of the sale deed which reads as under:-

“That the sellers have delivered the vacant and peaceful possession of this 570 bighas of land only mentioned above to the purchaser on the spot and the sold land abuts the scheduled PWD road and highest

circle rates of uncultivable land have been taken for the purpose of calculation of market value of land. However, the market value of land is lesser than the consideration amount.”

16. In terms of Clause-1, at the time of the execution of the sale deed, the seller had delivered the vacant and peaceful possession of 570 bighas of land to the purchaser on the spot, meaning thereby that the respondent herein had acknowledged the delivery of the vacant and peaceful possession of 570 bighas of land. In light of this fact also the impugned communication (Annexure P-1) is not sustainable in the eyes of law at all.

17. Accordingly, in light of the above discussions, this petition is allowed. Annexure P-1 is quashed and set aside. Consequences to ensue. Pending miscellaneous applications, if any, also stand disposed of.

(Ajay Mohan Goel)
Judge

October 27, 2025
(Vinod)