



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.3363 of 2025
Reserved on:05.09.2025
Decided on: 26.09.2025

M/s Springdale Resorts and Villas Pvt. Ltd. ... Petitioner
Versus
State of Himachal Pradesh & others ... Respondents

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

For the petitioner : Mr. Suneet Goel, Senior Advocate,
with Mr. Vivek Negi, Advocate.
For the respondents : Mr. Rajpal Thakur, Additional
Advocate General.

Ajay Mohan Goel, Judge

The petitioner before this Court is a Company, registered under the Companies Act. As per the averments made in the petition, the petitioner/Company intended to develop Integrated Housing Project at Anech, Pargna Bharolikalan, Tehsil and District Solan, H.P. over land comprised in Khewat No. 40, Khatauni No. 92, Khasra Nos. 596/537/451, measuring 106 Bigha 04 Biswa and land comprised in Khewat No. 39, Khatauni No. 91, Khasra No. 452/2, measuring 25 Bigha 14 Biswa, land comprised in Khewat No. 48, Khatauni No. 101, Khasra Nos. 536/451/2 and 572/274/1, measuring 10 Bigha 12 Biswa and land comprised in Khewat No. 39 min, Khatauni No. 90 Min, Khasra No. 622/595/537/451/1,

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

measuring 02 Bighas 02 Biswas, total land measuring 144 Bighas 12 Biswas, situated at Village Anech, Pargna Bharolikalan, Tehsil and District Solan, H.P. as per Jamabandi for the year 2008-09. For the said purpose, the petitioner entered into Agreement(s) to Sell, dated 22.09.2011, with the owners of the said land. The Town and Country Planning Department issued the Essentially Certificate recommending the aforesaid land for transfer in favour of the petitioner-Company in terms of Annexure P-2, dated 27.05.2014. The petitioner/Company, thereafter, sought permission under Section 118 of the H.P. Tenancy and Land Reforms Act, 1972 (hereinafter referred to as 'the 1972 Act') for the sale/purchase of the said land for the aforesaid purpose. The application was submitted in the prescribed form in the year 2014. Vide Annexure P-3, i.e. communication dated 24.09.2014, the petitioner was informed that the Government had granted permission in favour of the petitioner-Company to purchase the aforesaid land referred to therein, situated in Mauja Anech, Tehsil and District Solan, H.P., for setting up a residential complex i.e. Integrated Housing Project, on the conditions mentioned therein. Pursuant thereto, a Certificate dated 26.2.2015 for registration as a Promotor was issued in favour of the petitioner-Company by Town & Country Planning Department Government of Himachal Pradesh. Copy of the certificate dated 26.2.2015 is

appended with the petition as Annexure P-4, dated 26.02.2015. Thereafter, the petitioner-Company took steps for registering the Sale Deeds and the Sale Deeds were ultimately registered on 26.09.2018. The delay in the execution of Sale Deed was on account of the reasons spelled out in Para-8 of the petition, which included certain litigation also, as few of the land owners with whom the Agreement to Sell was executed, showed their reluctant only to register the Sale Deed and the petitioner had to pursue the matter in the Court also. It is further the contention of the petitioner that though the period of permission granted to the petitioner-Company for the utilization of the land under Section 118 of the 1972 Act was to be counted from the date of registration of the Sale Deed nevertheless on the applications of the petitioner-Company, the permission was extended till 30.09.2018.

2. After the registration of the Sale Deeds, the Company could not immediately put to use/utilize the land as the same entailed various permissions from concerned Authorities and Departments, such as Panchayats concerned, H.P. Town and Country Planning Department, I&PH Department, HPSEB, HPPWD, Fire Department, Forest Department and H.P. Pollution Control Board and Ground Water Authorities. Thereafter, on account of the outbreak of the COVID-19 Pandemic, not only the requisite

permissions were delayed, but the development work also could not be carried out. The petitioner-Company in these circumstances applied to the Authority for extension of the permission to put to use/utilize the land and the same was extended vide Communication dated 23.03.2021 (Annexure P-8) up to 28.09.2021.

3. As per the petitioner, the period of 15.03.2020 up to 28.02.2022 has to be excluded in terms of the order passed by the Hon'ble Supreme Court of India in this regard.

4. It is further the case of the petitioner-Company that it had submitted necessary documents for seeking approval from Town and Country Planning Department for the Project by submitting necessary documents, but certain observations were raised by the Department and the same were duly adverted to by the Company.

5. The necessary permission for development of the land was accorded by the Town and Country Planning Department vide Annexure P-9, dated 18.09.2021. After receiving the requisite permissions, the petitioner-Company started putting to use/utilize the land for the purpose for which it was allowed to purchase the same. The petitioner has appended as Annexure P-10, a certificate dated 24.9.2021 issued by the Village Revenue Officer, which demonstrates that the petitioner had put the land in question to use for the purpose for which it was allowed to purchase the same.

6. It is further the case of the petitioner that though the land in question was put to use/utilized for the purpose for which it was allowed to be purchased but under mistaken belief that further extension was required to complete the Project, the petitioner-Company applied for the same and vide communication dated 05.10.2021, Deputy Commissioner, District Solan, H.P. forwarded the case of the petitioner-company for extension of time to the Principal Secretary (Revenue) to the Government of Himachal Pradesh. The communication dated 05.10.2021 is appended with this petition as Annexure P-12.

7. In the meanwhile Project Registration Certificate was issued on 23.12.2021 in favour of the petitioner-Company as Annexure P-13. On 02.11.2023, the Principal Secretary (Revenue) to the Government of Himachal Pradesh issued Guidelines for cases under Section 118 of the 1972 Act, particularly with regard to put to use certificate. In terms of these Guidelines, in cases of commercial purpose, such certificates were to be issued by the Competent Authority of the Department which had issued the Essentiality Certificate. Copy of the Guidelines dated 02.11.2023 is appended with the petition as Annexure P-14.

8. Thereafter, the petitioner-company addressed communication dated 22.12.2023 (Annexure P-15), to the concerned

Town and Country Planner, submitting revised drawings and other necessary documents intending to revise the Project. This communication dated 22.12.2023 is appended with the petition as Annexure P-15. However, vide communication, dated 03.02.2024, the concerned Town and Country Planner alleged that the land has not been put to use and revised approval could only be processed after submitting fresh permission under Section 118 of the 1972 Act. Copy of said communication is on record as Annexure P-16.

9. According to the petitioner, this stand of the Town and Country Planner was bad in light of the fact that he was only required to look as to whether the Revision in drawings sought for by the petitioner-Company could have been approved in light of the provisions of the H.P. Town and Country Planning Act and Rules framed thereunder or not. Thus, the stand of the concerned Town and Country Planner was refuted by the petitioner-Company in terms of communication dated 22.08.2024 and the concerned Town and Country Planner was requested to reconsider the request of the petitioner company for revision of approval. This communication is also on record as Annexure P-17.

10. Thereafter, vide communication dated 11.09.2024, District Revenue Officer intimated the concerned Town and Country Planner that the case of the petitioner-Company for extension of time

period had been forwarded vide communication dated 05.10.2021 and was pending at Government level and no proceedings under Section 118 of the 1972 Act were pending against the petitioner-Company. This communication dated 11.09.2024 is on record as Annexure P-18. In light of this clarification issued by the District Revenue Officer, the petitioner-Company again addressed communication dated 13.09.2024 seeking revision of approval from the concerned Town and Country Planner, vide Annexure P-19, dated 13.09.2024.

11. As per the petitioner-Company, it had put the land to use, for which certificate dated 24.09.2021 already stood issued by the Village Revenue Officer, nevertheless in light of the revised Guidelines dated 02.11.2023 and to straighten the record, the petitioner sought put to use certificate from the concerned Town and Country Planner vide communication dated 04.10.2024 (Annexure P-20). Vide communications dated 13.10.2024 and 13.11.2024, the petitioner-Company, again under mistaken belief, requested Principal Secretary (Revenue) to the Government of Himachal Pradesh to expedite the pending recommendation made by Deputy Commissioner, Solan vide communication dated 05.10.2021 for providing necessary extension to the petitioner-Company to complete the Project.

12. Thereafter, vide communication dated 23.11.2024, Deputy Commissioner, District Solan, H.P. forwarded the request of the petitioner-Company for extension of time to complete the Project with his recommendation in terms of Annexure P-22, dated 23.11.2024. However, vide communication dated 17.01.2025, Additional Chief Secretary (Revenue), to the Government of Himachal Pradesh rejected the request of the petitioner-Company and the recommendation made by the Deputy Commissioner, Solan, H.P. for extension of time for completion of Project in question vide communication dated 17.01.2025 (Annexure P-23).

13. According to the petitioner-Company, said facts demonstrate that the petitioner-Company was not only required to take number of NOCs from various Authorities but issuance of one NOC was made dependent on the other. The petitioner had to run from pillar to the post to obtain requisite NOCs firstly for the sale/purchase of the land in question and thereafter, for completion of its Project. Accordingly, the petitioner has contended that the delay in the implementation of the Project was on account of the non issuance of NOCs by the Authorities in time as well as pendency of litigation qua certain portion of the land, the attitude of the Registration Authorities, demonitisation and outbreak of Covid-19 Pandemic, all of which contributed to the delay, which was beyond

the control of the petitioner-Company. It is contended by the petitioner-Company that even though the land in question had been put to use/utilized for the purpose for which permission was granted and Authorities were duly updated about the progress of the Project, even so permissions were sought by the petitioner-Company in the background of the facts and circumstances detailed hereinabove and under mistaken belief for extension of time for completion of the Project. The petitioner is aggrieved by the rejection of the case of the petitioner for extension of time to complete the Project and hence, the petitioner has filed this writ petition, *inter alia*, praying for the following reliefs:-

"B) quash communication(s) dated 03.02.2024 (Annexure P-16) and 17.01.2025 (Annexure P-23).

C) Direct the respondent to reconsider the case of the petitioner Company for revision of drawings in light of existing rules and regulations.

D) In the alternative direct the respondents to consider the case of the petitioner for extension of time to complete the Project by excluding the delays caused in execution thereof, which are not attributable to the petitioner.

E) In the alternative, respondents may be directed to renew/grant relevant/requisite permissions afresh in the time bound manner through Single Window System in order to enable the petitioner Company to complete its Project."

14. The stand of the respondents is that the petitioner had submitted an application for the grant of permission to purchase the land in the year 2014 for setting up a residential complex (Integrated Hosing Project), which was granted by the Government and conveyed vide letter dated 24.09.2014, but with the condition that as per proviso below Section 118(2)(h) of the 1972 Act, the purchaser was to utilize the land for the purpose for which it was allowed to purchase the same within a period of two years, further extendable by one year and the period of two years would be counted from the date of registration, failing which, land alongwith structure, if any, will be vested in the State of Himachal Pradesh free from all encumbrances. On the request of the petitioner-Company, extensions were granted as mentioned in the petition and that the petitioner-Company on 08.09.2020 submitted an application in the Office of Deputy Commissioner, Solan, for extension of time, i.e. one year for completing the Housing Project and the same was sent to the Government vide letter dated 19.10.2020. The Government granted permission for extension of time of one year i.e. up to 28.09.2021, with the direction that as per provision of Rules, this permission will be final and after this, it is not Possible to extend this time period. Thereafter, the petitioner-Company again submitted an application dated 24.08.2021 for further extension of time for

completing the Housing Project with the reason that the Project got delayed due to COVID-19 Pandemic and the same was again sent to the Government vide letters dated 05.10.2021 and 23.11.2024. The Government vide letter dated 17.01.2025, rejected the case of the petitioner for extension of time for completion of the Housing Project and conveyed that the petitioner-Company has not utilized the land within the stipulated period and there is no provision under the Act/Rules to extend the period beyond three years from the date of registration of Sale Deeds. On this count, the respondents have defended their act.

15. I have heard learned Senior Counsel for the petitioner as also learned Additional Advocate General and have also carefully gone through the pleadings and other documents on record.

16. A perusal of the documents on record demonstrates that the permission to purchase the land under Section 118 of the 1972 Act was accorded in favour of the petitioner on 24.09.2014 and it was mentioned in the communication that the permission was valid for one year from the date of issuance of the letter. It was also mentioned in this communication that in terms of the proviso below Section 118 (2) (h) of the 1972 Act, the purchaser is to utilize the land for the purpose for which the same was allowed to be purchased within a period of two years, extendable by one year

which period was to be counted from the date of registration of Sale Deed. It was also mentioned therein that before purchase, the petitioner was to satisfy itself that it would be able to complete various other formalities within a period of two years, failing which, the consequences were to ensue. Annexure P-4, dated 26.02.2015, demonstrates that the certificate for registration, as a promoter in terms of Form-36, under Rule 41 (2) of the Rules framed under the provisions of the H.P. Town and Country Planning Act, 1977, as amended upto 2013, was granted in favour of the petitioner on 26.02.2015. The certificate was to remain valid for a period of three years which was renewable. The extension of time that was granted to the petitioner for registration of the Sale Deeds is also not much in dispute.

17. Be that as it may, in terms of Annexure P-8, said period was extended by the Government as upto 28.09.2021. Annexure P-9 demonstrates that on 18.09.2021, permission was granted in favour of the petitioner under Section 31 (b) of the Town and Country Planning Act, 1977 for proposed plotted housing colony on land mentioned therein, after considering its feasibility as per approved drawing subject to the conditions mentioned therein.

18. Annexure P-10 is the report of the Village Revenue Officer, dated 24.09.2021, to the effect that the land stood put to use

in terms of the permission granted by the Government and the construction work of the road etc. with the usage of JCB Machines was underlying. Vide Annexure P-11, the details of the construction work carried out and other steps taken for the construction of the Integrated Housing Project were informed to the Village Registrar (Patwari) on 25.09.2021.

19. Annexure P-12 is the communication addressed by Deputy Commissioner, Solan, 05.10.2021, the Principal Secretary-cum-Financial Commissioner (Revenue), to the Government of Himachal Pradesh on the subject 'application of M/s Springdale Resorts & Villas Private Limited for the grant of permission for the extension of time period to complete the Project'. Annexure P-13 is the Project Registration Certificate issued in favour of the petitioner by the Real Estate Regulatory Authority (RERA). The date of issuance mentioned therein is 23.12.2021 and said certificate was valid upto 23.12.2031. In terms of Annexure P-15, dated 22.12.2023, the petitioner wrote to the Town and Country Planner, Divisional Town Planning Office, Solan, H.P., on the subject: "Regarding Revision of Approval for integrated Housing Project of M/s Springdale Resort and Villas Pvt. Ltd." It was mentioned in this communication that the petitioner had acquired 134 bighas of land by way of permission granted under Section 118 of the 1972 Act for

Integrated Housing Project and it had been granted permission for development vide TCP Office Letter dated 18.09.2021. It was also mentioned in this communication that as the petitioner wanted to get a Project revised, it was submitting the revised drawing for approval. Upon receipt of this communication, the Town and Country Planner, Divisional Town Planning Office, Solan, H.P. wrote to the petitioner and stated therein that its case was examined in the Office and the site was also inspected and it was observed that the petitioner had not put to use the land under reference till date which was in violation of the permission granted under Section 118 of the 1972 of the Act. The validity of the permission had already expired on 28.09.2021 and as the petitioner had not adhered to the terms and conditions of letter dated 18.09.2021, therefore, the case for revised approval can only be processed after submitting request for fresh permission under Section 118 of the 1972 Act. This Court would like to pause at this stage.

20. In terms of communication dated 03.02.2024, the Town and Country Planner informed the petitioner that its application for the revision of the Project could not be considered, as the validity of the permission granted to it under Section 118 of the 1972 Act, had expired on 18.09.2021.

21. This Court is of the considered view that while issuing

this communication, the Authority erred in not appreciating that on 18.09.2021 itself, vide Annexure P-9, it had granted the petitioner permission for proposed plotted housing colony and the permission which was accorded, was for development under Section 31 (b) of the Himachal Pradesh Town and Country Planning Act, 1977. In other words, the permission initially granted was for the **development of the site** and it is not as if permission was accorded *per se* for the construction of the Housing Colony. Permission accorded was for the development of the site for plotted housing colony and as per the petitioner, it has carried out the development activity in the area which is also evident from the certificate issued by the Village Revenue Officer. This is not much under dispute.

22. Be that as it may, as Annexure P-9 is dated 18.09.2021, on which date, the permission for development was accorded and as the development now was to be carried within a period of three years from the date of sanction, that is on or before 18.09.2024, therefore, when the petitioner approached said Authority for the revision of the approval which was accorded on 18.09.2021 vide Annexure P-15, dated 22.12.2023, the Authority concerned should either have had approved the revision, as was being sought by the petitioner or rejected the same. It had no authority to sit over the same as it actually did. Otherwise also, in light of the fact that the permission

granted by this Authority was in force till 18.09.2024, there was no occasion for the Authority to have had observed on 03.02.2024, vide Annexure P-16 that the permission granted to the petitioner under Section 118 of the 1972 Act had expired on 28.09.2021.

23. If indeed, the permission expired on 28.09.2021, then it is not understood as to how said Authority gave the permission for development on 18.09.2021, validity whereof was for a period of three years. The Authority could not have expected the petitioner to do the needful in terms of said permission within 10 days. Further, it is not understood that if indeed the validity of permission under Section 118 of the 1972 Act was only upto 28.09.2021, then why RERA issued the Project Registration Certificate in favour of the petitioner on 23.12.2021, i.e. after 28.09.2021, that too, on the strength of permission granted to the petitioner under Section 118 of the 1972 Act with a validity up to 22.12.2031.

24. Further, this Court is of the considered view that otherwise also as the limited scope of the Town and Country Planner was either to accept or reject the revised proposal which was submitted within the period of validity of the permission granted vide Annexure P-9, said Authority had no power vested in it to have had made any observation qua the validity of the permission granted in favour of the petitioner under Section 118 of the 1972 Act.

25. In fact, record demonstrates that Annexure P-16, dated 03.02.2024 was responded by the petitioner vide Annexure P-17, dated 22.08.2024, in which, it was mentioned that besides other things, the site had already been put to use for the intended purpose. The efforts of the petitioner in developing the internal road infrastructure, drainage system and retaining wall (Dangas), constituted substantial progress towards the Project's ultimate goal. Said initial work was essential for further construction activities. Building plan approval which requires revised sanction drawings is crucial for commencing construction of the housing units etc.

26. The H.P. Tenancy and Land Reforms Act, 1972 has been enacted to unify, amend and consolidate the law relating to tenancies of agricultural lands and to provide for certain measures of land reforms in Himachal Pradesh. Chapter-IX of the Act deals with control of transfer of land. Section 118 thereof provides that transfer of land to non-agriculturists is barred. This Section, which I will hereinafter quote *in extensio*, provides that notwithstanding anything conferred in any law, contract, agreement, custom or usage for the time being in force, but save as otherwise provided in this Chapter-IX of the Act, 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. For ready reference, this Section is quoted hereinbelow:-

“[118. Transfer of land to non-agriculturists 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.

3[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 for a consideration paid or provided by a non- agriculturist ; and

(b) an authorisation 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 or-

(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

1(dd) a person who, on commencement of this Act, worked and 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, 1956,2[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

3[(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 purchase land for the construction of a house or shop, or purchases a built up house or shop, from the 1[Himachal Pradesh Housing and Urban Development Authority, established under the Himachal Pradesh 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 or 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 2[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 3[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 .]

(3) No Registrar or the Sub-Registrar appointed under the Indian Registration Act, 1908 shall register any document pertaining to a transfer of land, which is in contravention to sub-section (1): 4[XXXXXXXXXXXXX].

Provided that the Registrar or the Sub-Registrar may register any transfer-

(i) where the lease is made in relation to a part or whole of a building; or

(ii) where the mortgage is made for procuring the loans for construction or improvements over the land either from the Government or from any other financial institution constituted or established under any law for the time being in force or recognized by the State Government. 1[3A Where—

(a) the Registrar or the Sub-Registrar, appointed under the Indian Registration Act, 1908 (16 of 1908), before whom any document pertaining to transfer of land is presented for registration, comes to know or has reason to believe that the transfer of land is in contravention of sub-section (1);or

(b) a Revenue Officer either on an application made to him or on receipt of any information from any source, comes to know or has reason to believe that any land has been transferred or is being transferred in contravention of the provisions of sub-section (1);

such Sub-Registrar, the Registrar or the Revenue Officer, as the case may be, shall make reference to the Collector of the District, in which land or any part thereof is situate, and the Collector, on receipt of such reference, or where the Revenue Officer happens to be the Collector of the District himself, he either on an application made to him or on receipt of any information from any source, comes to know or has reason to believe that any land has been transferred or is being transferred in contravention of the provisions of sub-section (1), shall after affording to the persons who are parties to the transfer, a reasonable opportunity of being heard and holding an enquiry, determine whether the transfer of land is or is not in contravention of sub-section (1) and he shall, within 2[six months] from the date of receipt of reference made to him or such longer period as the Divisional Commissioner may allow for reasons to be recorded in writing, record his decision thereon and intimate the findings to the Registrar, Sub-Registrar or the Revenue Officer concerned.

(3B) The person aggrieved by the findings recorded by the Collector, that a particular transfer of land is in contravention of the provisions of sub-section (1),

may, within 30 days from the date on which the order recording such findings is made by the Collector or such longer period as the Divisional Commissioner may allow for reasons to be recorded in writing file an appeal to the Divisional Commissioner, to whom such Collector is subordinate, and the Divisional Commissioner may, after giving the parties an opportunity of being heard and, if necessary, after sending for the records of the case from the Collector 3[xxxxxx] reverse, alter or confirm the order made by the Collector 4[and the order made by the Divisional Commissioner shall be final and conclusive].

1[(3-C) (a) The Financial Commissioner may, either on a report of a Revenue Officer or on an application or of his own motion, call for the record of any proceedings which are pending before, or have been disposed of by, any Revenue Officer subordinate to him and in which no appeal lies thereto, for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto as he may think fit.

(b) No order shall be passed under this sub-section which adversely affects any person unless such person has been given a reasonable opportunity of being heard.]

(3-D) Where the Collector of the District under sub-section (3A), in case an appeal is not made within

the prescribed period, or the Divisional Commissioner in appeal under sub-section(3B), or the Financial Commissioner in 2[revision] under sub-section (3C), decides that the transfer of land is in contravention of the provisions of sub-section (1), such transfer shall be void abinitio and the land involved in such transfer together with structures, buildings or other attachments, if any, shall in the prescribed manner, vest in the State Government free from all encumbrances; and

(4) It shall be lawful for the State Government to make use of the land which is vested or may be vested in it under sub-section (2) or sub-section 3[(3D)] for such purposes as it may deem fit to do so.

4[Explanation-I for the purpose of this section, the expression "land" shall include-

(i) land recorded as "Gair-mumkin", "Gair-mumkin Makan" or any other Gair-mumkin land, by whatever name called in the revenue records; and

(ii) land which is a site of a building in a town or a village and is occupied or let out not for agricultural purposes or purposes subservient to agriculture 5[but shall not include a built-up area in the municipal area;]

6[Explanation-II- For the purpose of this section the expression "municipal area" means the territorial area of a Nagar Panchayat, Cantonment Board, Municipal Council or a Municipal Corporation constituted under any law for the time being in

force.]"

27. A perusal of sub-section (2) (h) of Section 118 of the 1972 Act demonstrates that it provides that nothing in sub-section (1) of the Act shall be deemed to prohibit the transfer of land by any person in favour or a non-agriculturist with the permission of the State Government for the purpose that may be prescribed. The second provision to this Clause provides that a non-agriculturist in whose case permission to purchase the land is granted under (h) of this sub-section, shall put the land to such use for which permission has been granted within a period of two years or a further 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 date on which the Sale Deed of the land is registered and if he fails to do or diverts, without the permission of the State Government, the said user for any other purpose or transfer by way of sale, gift or otherwise, the land so purchased by him shall, in the prescribed manner, vest in the State Government free from all encumbrances.

28. Therefore, in terms of this statutory provision, within the period prescribed as from the date of registration of the Sale Deed, the purchaser "**shall put the land to such use for which the permission has been granted**".

29. This Court is of the considered view that the words

“shall put the land to such use for which the permission has been granted” are not to be interpreted as myopically as the respondents want the Court to read them. Obviously, when an entity has granted permission under Section 118 of the 1972 Act to purchase the land for a particular Project, the concern of the State, that the land should be used for the Project for which the consent has been granted, is a genuine and bonafide concern. The period of two years along with extension, as prescribed in this statute, again cannot be construed in a myopic manner so as to mean that everything with regard to the Project has to be completed before the expiry of the period. In fact, had that been the intent of the Legislature, then nothing prevented the Legislature from using such words in the Act that the Project for which the permission is granted should be completed in all respects before the expiry of the period prescribed in the relevant Section. However, the Legislature has been careful in using the words that the land shall be put to such use for which the permission has been granted rather than using the words that the Project etc. for which the permission has been granted, be it commercial or non-commercial, has to be completed in all respects before the expiry of the period prescribed. The intent appears to be very clear and evident that what is required in law is that steps have to be taken to put the land to use for the purpose for which the

permission has been granted before the expiry of the period prescribed in the Statute.

30. Therefore, in a case where permission is granted in favour of a person or an entity to purchase the land under Section 118 of the 1972 Act and after registration of the Sale Deed, the party does not take any steps whatsoever in the direction within the prescribed period, then obviously, the traps thereof would come into play. However, if cogent steps stood taken by the Project proponent or the person in whose favour the permission has been granted, then the condition contained in the Section of putting the land to use for the purpose for which permission has been granted, stands satisfied. This Court would also like to clarify that steps which a party should have taken must be cogent and definite steps and not cosmetic steps.

31. In the present case, it is not in dispute that after the registration of the Sale Deed, the petitioner has got itself registered with RERA. Not only this, the petitioner applied for the permission to carry out development activities which was granted on 18.09.2021, which was to remain in force for three years. It is also not in dispute that development activities, as have been mentioned in the writ petition as well as documents appended with the petition, have already been undertaken by the petitioner. It is also a matter of

record that before the expiry of period of three years as from the date of the grant of permission in terms of Annexure P-9, dated 18.09.2021, petitioner had submitted a request for revision of the plan upon which no action was taken by the concerned Town and Country planner.

32. In these circumstances, this Court is of the considered view that in the facts of the present case, it cannot be said that the petitioner herein had not put the land to such use for which the permission was granted within the time granted by the State. Herein, the land was indeed put to such use for which purpose the permission was granted, as effective steps were taken by the petitioner in this regard as has been observed by me hereinabove. It is again reiterated that the expression used in the statute 'shall put the land to such use' cannot be constructed as if the Project *per se* has to be completed within the period prescribed. If this interpretation is given to the Clause, then said interpretation would not only be dangerous, but it would be a regressive interpretation rather than a progressive interpretation.

33. This Court can take judicial notice of the fact that various permissions are granted under Section 118 of the H.P. Tenancy and Land Reforms Act for big and small Projects by the State Government, for which many permissions are required from

various Departments for the purpose of implementation of the Project even after the registration of the Sale Deed and obviously, the actual construction work can be started only after all the permissions are there in favour of the parties. Therefore, if the words **“shall put the land to such use for which the permission has been granted”** are given the interpretation that the entire activity has to be completed from ‘A to Z’ within the period mentioned in the Proviso, then majority of the Projects would fall in the trap thereof. Accordingly, the only meaningful interpretation which can be given to these words is that the beneficiary of the permission has to demonstrate that cogent and meaningful steps stand taken by it to put the land to use for the purpose for which the permission has been granted and if this test is satisfied, then the same has to be construed and read that the permission holder has put the land to such use for which the permission has been granted.

34. Coming back to the facts of this case once again, this Court reiterates that in light of Annexure P-9, in terms whereof, the permission for development was accorded to the petitioner, which was valid for three years and as the development work was undertaken by the petitioner which was also evident from Annexure P-10, dated 24.09.2021, otherwise also, there was no occasion for the Authorities to have had reached to the conclusion that the

permission granted to the petitioner under Section 118 of the H.P. Tenancy and Land Reforms Act has expired.

35. At this stage, this Court would like to refer to the judgment of the Hon'ble Division Bench of this Court, passed in *Ravinder Chauhan and others Versus State of Himachal Pradesh and others*, AIR 1999 Himachal Pradesh 43, In this judgment Hon'ble Division Bench held as under:-

“19. In the light of the above provisions of the Statute and the Rules in force, it becomes necessary for us to consider as to whether the plea raised on behalf of the petitioners that the vesting envisaged under the second proviso to Clause (i) of Sub-section (2) of [Section 118](#) of the Act is automatic and instant on the expiry of the period or it will depend upon on further adjudication by any competent authority before such vesting could be said to have taken place in a particular case. Rule 38-B inserted as noticed above, with detailed provisions in this regard, which were found finally notified on 24-3-1993 was also earlier notified on 14-12-1992 vide notification No. 10-5/75-Rev-B-Vol. III dated 3-11-1992. The subsequent rules provide a guideline and assistance of the manner in which a penal provision of the nature engrafted under the second proviso to Clause (i) of Sub-section (2) of [Section 118](#) of the Act has to be construed. That becomes obvious and necessary even de hors the Rule 38-B and in our view the said rule has been really inserted to make the provision in the Act more reasonable, to protect the main provision

in the Act itself from being rendered vulnerable for a challenge under [Article 14](#) of the Constitution of India. The conditions stipulated for being satisfied in the second proviso to bring into operation the vesting clause or the provisions of the rule itself provide ample basis and guidance as to how the said provision has to be construed. In our view, it is not that on the mere expiry of a period of two years, as may be granted by the State Government or a further period not exceeding one year that the vesting will automatically take place. The legislative intention apparently keeping in view of the drastic and penal nature and far reaching consequences of such vesting clause has been thoughtfully, carefully and meticulously expressed in engrafting a condition stipulating 'if he fails to do so', which in our view will operate as a condition precedent for actual vesting. The failure on the part of the person favoured with a permission under the provision, therefore, is the vital and pivotal fact which brings into operation the vesting clause and consequently it is but necessary and essential that some authority must place on record the failure on the part of the persons, who have been favoured with the permission after an objective consideration of the matter and such finding can be recorded only after complying with the principles of natural justice by giving an opportunity to the persons concerned before condemning them. What Rule 38-B has proposed to do is nothing but giving statutory recognition by means of prescription of a rule to the otherwise essential, vital and necessary procedure as a measure of safeguard to be observed in

terms of the principles of natural justice, too, before visiting a citizen with such penal and far reaching consequences involving substantial property rights. 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 any body 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.”

36. Recently, this judgment has been followed by the Hon'ble Co-ordinate Bench of this Court in CWP No.5544 of 2020, titled *State of Himachal Pradesh Versus M/s Barog Resorts Pvt. Limited*, decided on 22.08.2023, in which the same view has been reiterated.

37. A perusal of the judgment of the Hon'ble Division Bench of this Court demonstrates that Hon'ble Division Bench has been pleased to hold that it is not that on the mere expiry of a period of two years as may be granted by the State Government or a further period not exceeding one year that the vesting will automatically take place. Hon'ble Division held that the legislative intention apparently keeping in view of the drastic and penal nature and far reaching consequences of such vesting clause has been thoughtfully, carefully and meticulously expressed in engrafting a condition stipulating 'if he fails to do so'. Hon'ble Division Bench further held that in the view of the Hon'ble Division Bench will operate as a condition precedent for actual vesting. The failure on the part of the person favoured with a permission under the provision, therefore, is the vital and pivotal fact which brings into operation the vesting clause. Hon'ble Division Bench held that 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 State or for that matter any body from public to insist or assert that despite the obvious and for no fault of the party concerned, he should be condemned.

38. Therefore, from the above also it is evident that the words used in the statute that the land has to put to use have to be construed in a pragmatic manner and not in the manner as the respondents are reading. These words do not imply that the Project has to be finished or completed before the expiry of the period of permission. All that it envisages is that some cogent and effective steps should have been taken by the parties to put the land to such use for which the permission was granted as in the present case, needful was done by the petitioner.

39. Accordingly, in light of above observation as well as the judgments cited hereinabove, this writ petition is allowed, as prayed for. Communications dated 03.02.2024 (Annexure P-16) and 17.01.2025 (Annexure P-23) are quashed and set aside. It is further held that as the petitioner has already put the land to such use for which the permission has been granted, therefore, the permission granted in favour of the petitioner under Section 118 of the H.P.

Tenancy and Land Reforms Act has not expired and the respondents-Authorities are, therefore, now directed to consider the case of the petitioner-Company for revision of drawings in light of existing Rules and Regulations and pass appropriate orders thereupon within six weeks.

40. The petition accordingly stands disposed of. Pending miscellaneous applications, if any, also stand disposed of.

(Ajay Mohan Goel)
Judge

September 26, 2025
(Rishi)