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REGULATION OF LAND OWNERSHIP IN HIMACHAL PRADESH: A LEGAL OVERVIEW

Medhavi

LEGAL CONTROL ON LAND OWNERSHIP IN HIMACHAL PRADESH

Acquiring property in Himachal Pradesh is subject to various regulations compared to other states in India. This is because the state has some special characteristics that make it necessary to have some unique provisions regulating its land ownership.

These are the reasons why buying a house in Himachal Pradesh may require extra caution.

WHAT ARE THE REASONS BEHIND THE REGULATIONS ON LAND OWNERSHIP?

Since Himachal Pradesh is a hill state, its arable land is scarce. In addition, the majority of its residents earn a living through agriculture. In order to ensure that these people benefit from their lands and do not sell them out at low prices, the state authorities have enacted some specific land protection laws.

These laws serve to:

- Prevent the investment in agricultural land
- Prevent the sale of land due to financial difficulties by locals
- Protect the economic interest of rural communities
- Contribute to the sustainable development of the state

MAIN LAW: SECTION 118

The key act relating to land acquisition is the Himachal Pradesh Tenancy and Land Reforms Act, 1972. The most significant section of this act is Section 118.

Section 118, for all intents and purposes, prohibits the transfer of land to a person who is not an agriculturist in Himachal Pradesh without obtaining prior permission from the State Government or the relevant authority.

In layman's terms, non-agriculturists are not free to acquire agricultural lands without getting permission from the government.

CAN PEOPLE OUTSIDE HIMACHAL PRADESH BUY PROPERTY?

This is among the frequently asked questions. The answer to this question is, "Yes."

However, non-Himachalis, also known as outsiders, do not have the automatic right to acquire agricultural land in Himachal Pradesh. This will depend on:

- Whether or not the buyer is an agriculturist
- Type of land
- Purpose of the sale/purchase
- Requirement of permission
- Exemptions, if any

Every transaction will, therefore, have to be judged on individual merit.

WHO IS AN AGRICULTURIST?

The designation "agriculturist" carries immense significance when it comes to Himachal Pradesh laws related to properties. There are many elements involved in establishing whether someone is considered an agriculturist, including:

- The records pertaining to revenue
- The records maintained for the land owned by family members
- The inheritance of agricultural lands

It should not be misconceived that the possession of agricultural lands in another state would make one an agriculturist in Himachal Pradesh.

PROCESS FOR OBTAINING SECTION 118 PERMISSION

When Section 118 permission is sought, the applicant must furnish proof of:

- Identities and statuses
- Seller and property particulars

- Land registers and classifications
- Land area and locality particulars
- The intended purpose of land usage
- Evidentiary records related to revenues and laws

The authorities can confirm that the transaction is bona fide, the purpose is legitimate, and the transaction conforms to the policy of the State.

This permission cannot be automatically obtained. Permission could either be given, refused, or sanctioned under certain terms.

CAN YOU PURCHASE A HOME OR LAND PLOT?

Most homebuyers think that there will be no constraints in acquiring residential properties since the law covers only the structure. However, the issue lies in the classification of the land and not just the construction.

When considering the purchase of a home, flat, or landplot, one should first establish proof of:

- Title documents
- Revenue records
- Classification of the land
- Section 118 permission

Depending only on brokers or informal guarantees can cause many legal problems in the long run.

DUE DILIGENCE PRIOR TO PURCHASE

Before the acquisition of land in Himachal Pradesh, there should be proper legal investigation, which includes:

- Title and ownership
- Jamabandi and mutation
- Classification of the land
- Mortgage or any encumbrance on the land
- Litigation pending on the property
- Necessity of getting a permission under section 118
- Any other legal requirements

Proper due diligence can save you from losses or future legal problems.

CONSEQUENCES OF FAILURE

Buying land without fulfilling the legal requirements will lead to many problems, such as:

- Problems at the time of registering the land
- Obstacles in utilization
- Complications in selling
- Disputes over ownership
- May attract regulatory action by the government

So, it is recommended not to make any payment in advance without completing legal requirements.

COMPANIES AND INVESTORS

Companies, partnerships, trusts, and investors should also abide by land laws in Himachal Pradesh. The use of an entity will not automatically qualify one for an exemption from Section 118.

The authorities may check:

- Who controls the entity
- The actual intention behind the deal
- The intended business use of the property

This is especially important in industries related to tourism, hospitality, infrastructure, education, health, and other industries.

CONCLUSION

Ownership of property in Himachal Pradesh is more than just a real estate deal. It entails strict adherence to the law. Section 118 plays a pivotal role in securing the protection of agricultural lands and investments from outsiders.

As a buyer, investor, or developer, knowledge about agriculturist status, land classification, and permissions is vital prior to entering any transaction in Himachal Pradesh.

A legal analysis done at the start could avoid expensive conflicts in the future.

