

(2024) 10 UK CK 0082
In the Uttarakhand High Court
Case No : Writ Petition (MB) No. 497 Of 2024

Anmol Bhasin

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 17-10-2024

Acts Referred:

Citation : (2024) 10 UK CK 0082

Hon'ble Judges : Manoj Kumar Tiwari, J; Vivek Bharti Sharma, J

Bench : Division Bench

Advocate : D.S. Patni, Himanshu Yadav, Sunil Khera, Ashish Joshi

Final Decision : Disposed Of

Judgement

Manoj Kumar Tiwari, J

1. By means of this writ petition, the petitioner has sought the following reliefs:-

"i) Issue a writ order or direction in the nature of mandamus directing the respondents to adhere and act in accordance with the mandatory provisions of the "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" prior to taking any coercive or other action insofar as the petitioner's property (being Khata no. 00002 Khasra no. 2 Ka Min., Village Haldwani Malli, Pargana Bhavar 6 Khata, Tehsil Haldwani, District Naital), in the interest of justice.

ii) Quash the entire proceedings initiated by the respondents by way of which they are intending to demolish the property of the petitioner, including the report / order dated Nil (Annexure no. 1) issued by the respondent no. 5 Committee, insofar as they are proceeding with the demolition drive, without first determining the adequate amount of compensation in accordance with the mandatory provisions of the "The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013".

iii) Issue any other or further writ, order or direction which this Hon'ble Court

may deem fit and proper in the circumstances of the case.

iv) To award the cost of the petition in favour of the petitioner.”

2. According to the petitioner, he owns an immovable property consisting of land and building at Mangal Parao, Haldwani, District Nainital, which is likely to be affected, due to widening of Bareilly-Nainital road.

3. According to the petitioner, since there is no dispute regarding his title over the said immovable property, therefore, if his property has to be disturbed for road widening, then he has to be appropriately compensated.

4. Learned counsel for the petitioner submits that the petitioner is ready to remove that portion of his building, which falls within 12 meters from the centre of the Bareilly-Nainital road and all the petitioner wants is some reasonable time for demolishing the existing structure and also for constructing the supporting pillars.

5. Mr. Sunil Khera, learned Deputy Advocate General for the State of Uttarakhand, per contra submits that as per the communication received from National Highways Authority of India, the right of way is 15 meters from the centre of the Bareilly-Nainital road. However, the Administration has taken a decision to minimize the damage to the adjoining structure and to reduce the right of way for the time being to 12 meters. He further submits that several persons, who were likely to be affected due to the road-widening work, have already approached a Committee, constituted pursuant to the orders passed by a Coordinate Bench of this Court and the said Committee will determine the compensation, if at all is payable to any person for his / her immovable property. He submits that the petitioner can also be relegated to the said Committee, which will look into the quantum of compensation payable to the petitioner.

6. In view of the undertaking given by the petitioner through his counsel, petitioner is permitted to remove the part of the structure, which is falling within 12 meters from the centre of the Bareilly-Nainital road, within 30 days from today. Petitioner shall be at liberty to make an Application for compensation to the concerned Committee.

7. This Court hopes and expects that the said Committee shall determine the amount, if any, payable as compensation to the petitioner as soon as possible, but not later than three months from the date of making the said application.

8. With the aforesaid observations, the instant writ petition is disposed of.