

(2019) 09 UK CK 0064

In the Uttarakhand High Court

Case No : Restoration Application (MCC No. 66 Of 2019), Delay Condonation Application In Restoration Application (CLMA No. 1055 Of 2019) In Writ Petition (M/S) No. 1469 Of 2014

Ashad Singh

APPELLANT

Vs

Directorate, Rehabilitation Tehri Dam Project & Others

RESPONDENT

Date of Decision : 12-09-2019

Acts Referred:

Citation : (2019) 09 UK CK 0064

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : Pankaj Kumar, Neeraj Garg, Yogesh Pandey, Suyash Pant, R.P. Singh, Shobhit Saharia

Final Decision : Allowed

Judgement

Sudhanshu Dhulia, J

1. This writ petition was dismissed for non-prosecution on 22.09.2017. Now a restoration application along with the delay condonation application has been filed by the applicant/petitioner for recalling the order dated 22.09.2019.

2. Grounds shown in the delay condonation application appear to be just and bona fide. Delay Condonation Application is allowed, purely in the interest of justice and the delay is condoned.

3. For the reasons stated in the restoration application, the same is allowed. Order dated 22.09.2017 is recalled. Writ Petition is restored to its original number.

4. Heard learned counsel for the parties.

5. The petitioner before this Court is an oustee of Tehri Dam Project. According to the petitioner, his village, namely, Kumrada was acquired for the purposes of construction of Tehri Dam. Evidently, as per the Scheme though the petitioner

was liable to get the compensation for the land which has been acquired, but in case only less than 50 per cent of the land has been acquired, he would not be entitled for other benefits as are being given to the other oustees of Tehri Dam Project.

6. The case of the State Government as well as THDC India Limited is that it is only 40.03 per cent of the land of the petitioner which was acquired, for which the compensation has been given, but since the land of the petitioner is less than 50 per cent of the total acquisition of the land, he is not liable for special benefits which are liable to be given to such persons whose more than 50 per cent land has been acquired.

7. The only contention raised before this Court is whether 50 per cent land of the petitioner is acquired or not. What goes in favour of the petitioner is the reports of the Patwari as well as the Naib Tehsildar, which show that 55 per cent of the petitioner's land has been acquired. These reports have not been taken into consideration by any authority, including the Director Rehabilitation, Tehri Dam Project.

8. Since some benefits accrue in favour of the petitioner and the land of the petitioner which was acquired is more than 55 per cent as per the reports of the patwari and the Naib Tehsildar and great displacement has already occurred for those who have lost their land and the original place where they used to till the land, these benefits have to be considered in a more beneficial manner.

9. In view of the above, the writ petition is allowed. The order dated 01.03.2011 is hereby set aside. Let the Director, Rehabilitation, Tehri Dam Project consider the case of the petitioner in the light of the reports of the Patwari and the Naib Tehsildar and thereafter pass appropriate orders therein, as expeditiously as possible.