

(2010) 06 UK CK 0034
In the Uttarakhand High Court

Balwant Singh Rautela	Vs	APPELLANT
State of Uttaranchal and Others		RESPONDENT

Date of Decision : 14-06-2010

Acts Referred:

Citation : (2010) 06 UK CK 0034

Hon'ble Judges : J.S. Khehar, C.J.;Sudhanshu Dhulia, J

Bench : Division Bench

Judgement

J.S. Khehar, C.J.—The following interim directions were issued by a Division Bench of this Court in the instant Writ Petition on 22.6.2006:

4. The petitioner is seeking a direction to respondents 1, 2 and 4 to remove the encroachment made by respondent No. 6 over the Government land.

5. In the counter affidavit filed on behalf of respondent No. 6, para 17 reads as follows:

17. That the contents of para No. 14 of writ petition are not admitted as stated. It is true that the land belonged to Forest Department. The land in possession of respondent No. 6 is a public place in as much as it is a School meant for the benefit of children of public of the locality. However, it is wrong that any portion of 9000 square feet land of respondent No. 6 is in use for Ram Leela, marriage of religious or political meetings.

6. Respondent No. 6 is a private educational institution. Admittedly, the land in the occupation of respondent No. 6 belongs to Forest Department. As the said land was never transferred by the Government in favour of respondent No. 6 in any manner, the possession of respondent No. 6 over the said land is pure and simple encroachment.

7. We, therefore, direct respondents 1, 2 and 4 to initiate appropriate action for removal of the encroachment over the Government land against respondent No. 6 and all other encroachers including the petitioner.

Since the aforesaid Motion Bench order was assailed by respondent No. 6 before the Supreme Court, proceedings in this case came to be deferred from time to time. Petition for Special Leave to Appeal (Civil) No. 14270 of 2007 and Petition for Special Leave to Appeal (Civil) No. 13843 of 2006 filed in connection therewith, were both dismissed by the Supreme Court on 15.2.2010. It is now clear that the direction issued by this Court has been affirmed by the Apex Court and has to be complied with.

2. Mr. S.N. Babulkar, learned Advocate General for the State of Uttarakhand with Mr. H.M. Raturi, Advocate has informed us that a total of 345 encroachments have been identified, out of which, notices have already been issued to 321 persons, and that, the encroachments will be removed from the land in the occupation of the persons to whom notices have been issued and the construction effected by them will be demolished in compliance with the direction issued by this Court on 22.6.2006. However, it is submitted, that some more time will be needed for the said purpose. Learned Advocate General states that the order dated 22.6.2006 will be complied with, if two months' further time is granted by this Court positively qua 321 persons already identified, on whom notices have already been served. For the remaining 24 unauthorised occupants to whom notices have not yet been issued, it is submitted, that all efforts will be made to comply with the direction issued on 22.6.2006, within the time stipulated hereinabove. However, it is submitted, that in case it is not possible for the respondents to comply with the same qua the 24 persons on whom notices have not yet been issued/served, further extension of time may be sought in the exigency of the situation.

3. In view of the statement made by the learned Advocate General of Uttarakhand, it is necessary to clarify, that no further time will be sought by respondent Nos. 1 to 5 qua the 321 persons on whom notices have already been served and that they shall positively be removed from the land encroached, and the construction made on the encroached land in their possession shall be demolished, within two months from today. The aforesaid procedure, in the same time shall be carried out for the remaining 24 unauthorised occupants, as far as possible also within the same time frame. In case the aforesaid 24 persons cannot be removed from the encroached land and/or the construction made by them thereon cannot be demolished within the time stipulated hereinabove, respondent Nos. 1 to 5 shall bring the entire sequence of facts to the notice of this Court before seeking further extension in time.

4. Learned Counsel for the parties are agreed that in view of the aforesaid order by which all encroachments over forest land will be removed, within two months from today, and the matter on the instant aspect, has attained finality even before the Apex Court, the present petition has been rendered infructuous.

5. The instant Writ Petition is accordingly disposed of as having been rendered infructuous. Liberty is, however, granted to the petitioner to file a Civil Misc. Application or to initiate other legal proceedings, as may be available to the

petitioner in accordance with law, in case the directions issued by this Court remain uncomplied with.