

**(2013) 01 UK CK 0042**  
**In the Uttarakhand High Court**  
**Case No : Writ Petition (M/S) No. 96 of 2013**

Dharampal

APPELLANT

Vs

Smt. Prabha Rani Gupta

RESPONDENT

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**Date of Decision :** 15-01-2013

**Acts Referred:**

Provincial Small Cause Courts Act, 1887 — Section 25

**Citation :** (2013) 01 UK CK 0042

**Hon'ble Judges :** Brahma Singh Verma, J

**Bench :** Single Bench

**Advocate :** Nagesh Aggarwal, for the Appellant;

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## Judgement

B.S. Verma, J.

(Urgency Application No. 161 of 2013)

(Stay Application No. 394 of 2013)

1. Heard learned Counsel for the petitioner on urgency application. Grounds are sufficient to make out a case of urgency.

2. The urgency application is allowed.

3. By means of this writ petition, the petitioner has sought a writ of mandamus directing the revisional Court, i.e. Additional District Judge III, Haridwar to decide the stay application dated 27-8-2012 (paper no. 6-C) pending in the S.C.C. Revision NO. 23 of 2012, Dharampal Vs. Smt. Prabha Rani Gupta within time bound period. The petitioner has further sought a writ in the nature of certiorari quashing the order dated 2-1-2013 (Annexure-8) passed by the learned J.S.C.C./Civil Judge (Senior Division) Roorkee (for short J.S.C.C.) in Execution Case No. 3 of 2012 and also the entire proceeding of the Execution Case aforesaid.

4. The grievance of the petitioner is that he had filed S.C.C. Revision No. 23 of

2012 before the revisional Court i.e. Additional District Judge, III Haridwar against the judgment and decree passed by learned J.S.C.C. but the stay application moved by the revisionist-petitioner has not yet been decided by the learned revisional Court and Dakhal Parwana has already been ordered to be issued against the revisionist-petitioner by the learned J.S.C.C.

5. According to the petitioner, the respondent-plaintiff has put in appearance in the revision. The revisionist petitioner had also moved an application for stay in the revision, which is pending for disposal in S.C.C. Revision No. 23 of 2012.

6. Since the S.C.C. Revision filed by the petitioner u/s 25 of the Provincial Small Cause Courts Act, which is like an appeal is pending, therefore, in the interest of justice, till the stay application filed by the revisionist in the said Revision is decided by the learned Revisional Court, it is directed that the Dakhal Parwana, which was issued by the learned J.S.C.C. in Execution Case No. 3 of 2012, Smt. Prabha Gupta Vs. Dharampal, shall not be given effect to. (Stay application is disposed of.)

7. Issue notice to the respondent, who may file counter affidavit within a period of four weeks.

8. Apart from normal mode of service, the petitioner shall serve Dasti upon the respondent.

9. Put up in the week commencing 25-2-2013 in Daily Cause List. A certified copy of this order be issued to the learned Counsel for the petitioner today on payment of usual charges.