
(2021) 11 UK CK 0077

In the Uttarakhand High Court

Case No : Writ Petition No. (M/S) 2570 Of 2017

Dharmendra & Others

APPELLANT

Vs

B.H.E.L. Ranipur Haridwar

RESPONDENT

Date of Decision : 16-11-2021

Acts Referred:

Land Acquisition Act, 1894 — Section 6(1), 48

Citation : (2021) 11 UK CK 0077

Hon'ble Judges : S.K. Mishra, J

Bench : Single Bench

Advocate : Tapan Singh, V.K. Kohli, Kanti Ram Sharma

Final Decision : Dismissed

Judgement

S.K. Mishra, J

1. Heard Mr. Tapan Singh, the learned counsel for the petitioners and Mr. V.K. Kohli, the learned senior counsel assisted by Mr. Kanti Ram Sharma, the learned counsel for the respondent.

2. In this writ petition, the petitioners challenges the order passed by the learned 4th Additional District Judge, Haridwar in Misc. Civil Appeal No. 40 of 2017 on 14.09.2017. The learned 4th Additional District Judge, Haridwar has set aside the aforesaid order of injunction, granted by the learned Civil Judge (S.D.) Haridwar against the opposite party. The plaintiff filed the suit for perpetual injunction seeking restraining of the respondent from interfering the possession of the petitioner in respect of the land bearing Khasra No. 46 measuring 12 bigha & 9 biswa situated in Mauja Village Jwalapur, Tehsil & District Haridwar and, after appearance temporary injunction was granted against B.H.E.L. vide order dated 04.07.2017 which was set aside by the 4th Additional District Judge, Haridwar.

3. The facts of the case are not disputed. The Land Acquisition Notification dated 08.02.1962 was issued under Section 6(1) of the Land Acquisition Act, 1894. Thereafter, possession was taken by the State Government and was delivered to

the B.H.E.L. Since 1962, the land is in the possession of the B.H.E.L and it has been handed over to the State Industrial Development Corporation of Uttarakhand (hereinafter referred to as SIDCUL) for development purposes.

4. Learned counsel for the petitioners submits that since land has been given to another corporation, the purpose of acquisition has been defeated, and, therefore, he should get back his land. As per Section 48 of the Land Acquisition Act, 1894 once the land is acquired by the State Government it cannot be withdrawn from acquisition. (State Government Houseless Harijan Employees' Association vs. State of Karnataka, AIR 2001 SC 437 relied upon).

5. In that view of the matter, as the land has been acquired by the State Government and has been handed over to the B.H.E.L. which has allotted the same to the SIDCUL for development purposes a temporary injunction cannot be issued against the opposite party. Hence, the order passed by the learned Civil Judge (Sr. Div.) has been rightly set aside by the learned 4th Additional District Judge, Haridwar in Misc. Civil Appeal No. 40 of 14. Hence, no case is made out for interference in the order passed by the learned 4th Additional District Judge, Haridwar.

6. Hence, the writ petition is dismissed being devoid of merit.

7. There shall be no order as to costs.

8. Urgent certified copies of this order be provided as per rules.