

(2005) 11 UK CK 0009
In the Uttarakhand High Court
Case No : Special Appeal No. 75 of 2005

Durga Singh Chauhan and Others	Vs	APPELLANT
Committee of Management, A.N.K. Inter College and Others		RESPONDENT

Date of Decision : 22-11-2005

Acts Referred:

Allahabad High Court Rules, 1952 — Rule 10, 5
Constitution of India, 1950 — Article 226, 227

Citation : (2005) 11 UK CK 0009

Hon'ble Judges : Cyriac Joseph, C.J; Prafulla C. Pant, J

Bench : Division Bench

Advocate : Vijay Bhatt, for the Appellant;

Final Decision : Dismissed

Judgement

Cyriac Joseph, C.J.—A writ petition was filed as Writ Petition No. 222 of 2003 (M/S) challenging the judgment dated 10-02-1999 passed by the District Judge, Nainital in Misc. Civil Appeal No. 46 of 1997. The said writ petition was allowed by the learned Single Judge on 27-09-2005. The said judgment dated 27-09-2005 is challenged in this Special Appeal filed by Respondents Nos. 2, 3 and 4 in the writ petition.

2. The special appeal is filed under Rule 10 of Chapter IX of the Rules of Court issued by the High Court of Allahabad which are applicable to the High Court of Uttaranchal. The provision for a Special Appeal against a judgment of a Single Judge is contained in Rule 5 of Chapter VIII of the said Rules. Rule 5 of Chapter VIII reads thus:

5. Special appeal.—An appeal shall lie to the Court from a judgment (not being a judgment passed in the exercise of appellate jurisdiction in respect of a decree or order made by a Court subject to the superintendence of the Court and not being an order made in the exercise of revisional jurisdiction or in the exercise of its power of superintendence or in the exercise of criminal jurisdiction or in the

exercise of jurisdiction conferred by Article 226 or Article 227 of the Constitution in respect of any judgment, order or award (a) of a tribunal, court or statutory arbitrator made or purported to be made in the exercise or purported exercise of jurisdiction under any Uttar Pradesh Act or under any Central Act, with respect to any of the matters enumerated in the State List or the Concurrent List in the Seventh Schedule to the Constitution, or (b) of the Government or any officer or authority, made or purported to be made in the exercise or purported exercise of appellate or revisional jurisdiction under any such Act) of one judge.

3. Since the order impugned in the special appeal is an order passed by the learned Single Judge in the exercise of jurisdiction conferred by Article 226 or Article 227 of the Constitution of India in respect of a judgment of the District Court, Nainital passed under the Code of Civil Procedure, this Special Appeal is not maintainable.

4. Hence, the Special Appeal is dismissed as not maintainable.