
(2011) 05 UK CK 0037

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 993 of 2011

Fakir Mohammad and Others

APPELLANT

Vs

The State of Uttarakhand and Others

RESPONDENT

Date of Decision : 25-05-2011

Acts Referred:

Citation : (2011) 05 UK CK 0037

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Judgement

Sudhanshu Dhulia, J.—Heard Sri Jitendra Chaudhary, Advocate for the Petitioners, Sri. H. M. Raturi, Standing Counsel for the State of Uttarakhand as well as Mr. D. S. Patni, Advocate for Respondent Nos. 2 and 3.

2. The Petitioners are running different shops which come under the Nagar Palika, Jaspur. They have now received a Show Cause Notice, which asked them to evict as the shops need to be demolished within a particular period of time. The Petitioners claim that they are not encroachers and they have a valid lease from the Nagar Palika.

3. Mr. D. S. Patni, Advocate representing Nagar Palika states that it is only a Show Cause Notice and the Petitioners can raise all these objections before the authority.

4. The writ petition is therefore disposed of with the direction that Respondent Nagar Palika shall first hear the Petitioners after giving them an appropriate opportunity of hearing and thereafter it would give a finding as to how and under what circumstances, the Petitioners are liable to be evicted and the shops/structures are liable to be demolished. It is made clear that the part of the impugned notice, which calls for either eviction or demolition of the shops/structures shall not be implemented until the Petitioners are heard and a speaking order as referred above is first passed. While passing the orders, Nagar Palika shall also consider as to under what circumstances the Petitioners are

encroachers or their continuation in the disputed shops/structures is causing inconvenience and therefore, eviction and demolition of structures has become imminent in the public interest.

5. The writ petition is disposed of accordingly.

6. No order as to costs.