

(2010) 12 UK CK 0020

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 2169 of 2010

Gauri Shankar

APPELLANT

Vs

State of Uttarakhand and Another

RESPONDENT

Date of Decision : 23-12-2010

Acts Referred:

Citation : (2010) 12 UK CK 0020

Hon'ble Judges : Brahma Singh Verma, J

Bench : Single Bench

Judgement

B.S. Verma, J.

(Interim Relief Application No. 10710 of 2010)

1. Heard learned Counsel for the Petitioner and perused the record.
2. Learned Counsel for the Petitioner seeks permission to correct the particulars of the Respondent No. 2 and wants to delete the words "State of Uttarakhand through" from the array of Respondent No. 2. Permitted to incorporate the amendments during the course of the day.
3. By means of this writ petition, the Petitioner has sought a writ in the nature of mandamus commanding the Respondent No. 2 to open the seal of Petitioner's Almirah shop situated at Ekant Kutti, Haridwar Road, Rishikesh, district Dehradun, which is the source of livelihood of the Petitioner and his family. Further prayer has been made to issue a writ of mandamus directing the Respondent No. 2 to take a suitable action on the representation dated 8-12-2010 made by the Petitioner.
4. According to the Petitioner, his Almirah shop is situated at Ekant Kutti, Haridwar Road, Rishikesh, district Dehradun and a dispute is going on between the Petitioner and one Shri Dashrath Pant and several criminal and civil litigation are pending between them.

5. The grievance of the Petitioner is that the Respondent No. 2 has sealed the shop of the Petitioner without any authority of law, when the Petitioner had gone out of station on 6-12-2010. No notice was ever served upon the Petitioner and no reason has been assigned why the Almirah shop of the Petitioner was sealed.
6. Learned Counsel for the Petitioner has urged that the Petitioner has made an application on 8-12-2010 before the Up Zila Adhikari, Rishikesh, which was sent by registered post on 9-12-2010.
7. In exercise of writ jurisdiction, the disputed question of fact whether the Petitioner is the owner of the disputed shop or not cannot be verified. According to the Petitioner, disputes of criminal and civil nature are pending between Petitioner and private person. There might have been apprehension of breach of peace between the parties and the possibility of the disputed property having been attached cannot be ruled out at this stage.
8. In the circumstances, if the Petitioner is aggrieved by the order of sealing of shop passed by the Respondent No. 2, it is open to the Petitioner to approach the authority concerned for recalling the said order.
9. The Petitioner is given liberty to move a fresh application before the Magistrate concerned and if such an application is moved, the Respondent No. 2 shall pass appropriate orders in accordance with law, after hearing the Petitioner.
10. With the above observation, the writ petition is disposed of finally.