
(2012) 09 UK CK 0036

In the Uttarakhand High Court

Case No : Writ Petition (PIL) No. 456 of 2008

Major Govind Punvani (Retd.)

APPELLANT

Vs

State of Uttarakhand and others

RESPONDENT

Date of Decision : 11-09-2012

Acts Referred:

Citation : (2012) 09 UK CK 0036

Hon'ble Judges : Barin Ghosh, C.J;Umesh Chandra Dhyani, J

Bench : Division Bench

Advocate : M.C. Kandpal, assisted by Mr. S.S. Chaudhary, for the Appellant; Vinay Kumar for the State of Uttarakhand/Respondent Nos. 1 to 3, 5, 6, 9, 10, 13 to 15 and 17, Mr. D.S. Patni, Advocate for respondent Nos. 8 and 11, Mr. Sharad Sharma assisted by Mr. Atul Bhatt, Advocate for respondent Nos. 20 to 26 and Mr. Rajeev Singh Bisht, Advocate for the Intervener, for the Respondent

Judgement

1. An objection has been filed to the report of the special officers. The same is accepted on record. Apart from assertions made therein, there is nothing to suggest that the report submitted by the special officers is not correct. The assertion by the petitioner that encroachments have been made unauthorizedly has been supported by the report submitted by the special officers. Apart from bare denial to the same, there is nothing to show that the assertions, that unauthorized encroachment on public land has been made, is unfounded. With the objection, not one single copy of the sanctioned plan of the constructions has been annexed. Learned counsel, appearing on behalf of the objectors, submitted that his clients have purchased the properties in question after they were constructed and in the condition that they are now. He submitted that his clients do not have the sanctioned plans and, accordingly, his clients have applied for certified copies thereof. It is unbelievable that a person will purchase a constructed property without a sanctioned plan knowing fully well that no property of the nature purchased by the objectors could be constructed without sanction being obtained. Be that as it may, we permit the objectors to submit with the special officers sanctioned plans by 9th October 2012, in respect of the

constructions in question. In the event, sanctioned plans are not submitted within time as mentioned above, the special officers shall proceed on the basis that the constructions, impugned in the writ petition, namely, those which have been urged to be unauthorized, are, in fact, unauthorized. In the event, sanctioned plans are submitted, the special officers will ascertain with the assistance of the Engineers in the employ of the Municipal Board the extent of the construction, which is authorized, and proceed to hold that the remaining construction, if any, is unauthorized. This exercise must be done by the special officers by 14th October, 2012. They shall earmark the unauthorized constructions within 14th October 2012, and also, the authorized constructions within 14th October, 2012. The Municipal Board is directed to remove earmarked unauthorized constructions within 15th and 16th October, 2012. In order to carry out the aforementioned directions of the Court, the special officers as well as the Municipal Board shall be assisted by the police department of the State.

2. List the matter on 17th October 2012. It is made clear that, in the event, any demolition of the authorized construction is effected, the same shall not only be restored by the person responsible therefor, but the Court will also direct payment of appropriate compensation.