
(2020) 06 UK CK 0037

In the Uttarakhand High Court

Case No : Writ Petition No. 243 Of 2016 (M/S)

Sandeep Uniyal

APPELLANT

Vs

Tehri Hydroelectric Development Corporation India Limited &
Others

RESPONDENT

Date of Decision : 22-06-2020

Acts Referred:

Land Acquisition Act, 1894 — Section 4
Constitution Of India, 1950 — Article 226

Citation : (2020) 06 UK CK 0037

Hon'ble Judges : Ravi Malimath, J

Bench : Single Bench

Advocate : Sanjay Bhatt, Shobhit Saharia, Yogesh Pandey

Final Decision : Dismissed

Judgement

Ravi Malimath, J

1. The case of the petitioner is that a company was formed as respondent no. 1 in order to construct a dam over the river Bhagirathi with an object to generate electric power. The shares of the company are held by the Government of India, the State Government as well as THDC. Villages were acquired; the villages were submerged in the dam; a rehabilitation scheme was propounded. All those villagers whose lands and other properties were acquired and submerged were provided appropriate accommodation in New Tehri in terms of the rehabilitation scheme. Shri Ram Sharan was having lands, which were acquired for the construction of the dam. It was inherited by Smt. Dayawati, his daughter, on the basis of a gift deed. While implementing the rehabilitation scheme, various anomalies were reported and cases were filed before the High Court and other courts. Thereafter, in

terms of the order passed by this Court in various writ petitions a grievance redressal forum was constituted consisting of a judicial officers as well as administrative officers. Smt. Dayawati got married to Ghanshyam Das, as a second wife. She gave birth to two daughters. Both are married. Her husband died before the issuance of the notification under section 4 of the Land Acquisition Act. All his three sons were declared eligible to be rehabilitated in accordance with law. Since, Smt. Dayawati did not obtain any share in a husband's property, she did not receive anything towards rehabilitation.

2. In para 11 of the writ petition, it is stated by the writ petitioner that on 26.09.2014 Smt. Dayawati executed a will in favour of grand son, namely, the writ petitioner. It is further stated that she died on 01.07.2014, therefore, petitioner inherited the rights on the basis of the will. Since, the lands of Dayawati were acquired, a report was prepared. In view of the inaction of the respondents in not granting relief, a complaint was filed before the grievance redressal forum. The application was rejected and the request of the petitioner seeking rehabilitation was declined. Questioning the same, the instant writ petition is filed.

3. Learned counsel for the petitioner contends that the lands of Smt. Dayawati having been acquired and she having inherited her right, title and interest over the property, in question, is entitled for the benefit i.e. being granted under the rehabilitation scheme.

4. The same is disputed by respondent no. 1 through the counter affidavit. They have clearly stated that the claim of the writ petitioner is based on disputed questions of fact which cannot be decided in a writ jurisdiction under Article 226 of the Constitution of India. The will itself is disputed. The dates mentioned by the writ petitioner in this writ petition itself are doubtful. Therefore, all these issues cannot be decided by the writ court. Further, reliance has been placed upon the impugned order which indicates that the three sons of the husband of Smt. Dayawati were granted appropriate relief under the rehabilitation scheme. Therefore, petitioner would not be entitled for any relief.

5. On hearing learned counsels, I do not find any merit in this writ petition. The entire claim of the writ petitioner is based on the will said to have been executed by Smt. Dayawati in his favour. Even, the dates mentioned by the writ

petitioner appear to be doubtful. In para no. 11 he has stated that the will was executed on 26.09.2014. He has further stated that she died subsequently on 01.07.2014. Therefore, the very statement of the writ petitioner is incapable of being accepted. The will could not have been executed after the death of Smt. Dayawati. The same fact has been reiterated by the petitioner in the various other pleadings also. The said objection has since been raised by the respondent.

6. Therefore, when the entire claim of the writ petitioner is based on the will and the will itself is doubtful, no benefit can accrue to the writ petitioner.

If the writ petitioner is of the view that it is a validly executed will in his favour, then he is always entitled to go to the civil court and establish the

genuineness of the will. If and when such a decree is obtained indicating that the will is genuine, it is only, thereafter, that the writ petitioner would

derive any right in the alleged properties. Whether the writ petitioner is entitled to relief or not; whether the relief has already been granted to the three

sons of Ghanshyam Das is a matter to be considered subsequently. It would not be necessary for this Court to record any finding on the entitlement of

the writ petitioner over the lands, in question. It is suffice to hold that that the entire claim of the writ petitioner is based on the will and since the will

itself is a doubtful document, no right would flow to the writ petitioner. Therefore, it is only after the writ petitioner obtains a legally enforceable right

from the civil court pursuant to the alleged will in his favour, he could derive some right, title or interest in terms of the decree. No relief could be

granted to the writ petitioner, at the present stage.

7. Hence, on these grounds writ petition being devoid of merit is dismissed.