
(2025) 06 UK CK 0455
In the Uttarakhand High Court
Case No : Special Appeal No. 1083 Of 2017

Sanjay Hari

APPELLANT

Vs

Conservator Of Forest And Another

RESPONDENT

Date of Decision : 09-06-2025

Acts Referred:

Forest Act, 1927 — Section 26, 61B(1), 63

Citation : (2025) 06 UK CK 0455

Hon'ble Judges : Manoj Kumar Tiwari, J; Vivek Bharti Sharma, J

Bench : Division Bench

Advocate : Abhilasha Tomar, D.S. Bora

Final Decision : Dismissed

Judgement

Manoj Kumar Tiwari, J

1. This intra-court appeal is filed by the writ petitioner against dismissal of his writ petition vide judgment dated 20.09.2017, rendered in Writ Petition (M/S) No. 1553 of 2009. Operative portion of the impugned judgment is reproduced below:-.

"12. It is irrelevant whether the pillar was on the boundary of the Forest Department or on the boundary of village Sudhowala. The fact of the matter is that petitioner has encroached upon the forest land, as per the pillar existing on the ground.

13. There is no merit in this petition and the same is hereby dismissed."

2. Appellant filed Writ Petition (M/S) No. 1553 of 2009, seeking following reliefs:-

"(i) Issue a writ, order or direction in the nature of certiorari for quashing the impugned notice dt. 29/01/2009 (Annexure-1 to the petition) as well as impugned orders dt. 7th August, 2009 passed by the respondent no. 2 (Annexure-4 to the petition) and order dt. 04/09/2009 passed by the respondent no. 1 (Annexure-9C to the petition).

(ii) Issue a writ, order or direction in the nature of mandamus commanding the respondents not to interfere in the peaceful possession of the petitioner over the property in question."

3. It transpires that a Notice dated 29.01.2007 under Section 61-B(1) of Indian Forest Act was issued to the petitioner by Deputy Conservator of Forest, calling upon him to show cause as to why order of eviction be passed against him.

4. Appellant in his reply pleaded that the land in question falls within limits of village Sudhowala, therefore it is not a forest land.

5. After considering appellant's reply, Divisional Forest Officer passed eviction order against petitioner on 07.08.2009. Appellant challenged the eviction order by filing an appeal which was dismissed by Conservator of Forest vide order dated 04.09.2009. Thus feeling aggrieved, appellant filed the writ petition which has been dismissed by the impugned judgment.

6. Learned Single Judge dismissed the writ petition by holding that in the joint survey carried out by team of officers, drawn from forest department and revenue department, it was found that 1015 sq. mtr. of forest land was encroached upon by the appellant; a forest offence report was registered against the appellant under Section 26 read with Section 63 of Indian Forest Act and the Investigating Officer tried to record the statement of the appellant but he did not cooperate; the forest pillars was found displaced and the Divisional Forest Officer passed the eviction order by taking into account the joint survey report dated 28.01.2009; the eviction notice was issued by Divisional Forest Officer/Deputy Conservator of Forest and not by Assistant Conservator of Forest as alleged in the writ petition; appellant had demolished the boundary wall and Range Case No. 18/Jhajhra/08-09 was filed against him which was later on compounded.

7. We do not find any scope for interference with the impugned judgment. It is not in dispute that eviction order was passed after giving reasonable opportunity of hearing to the appellant. There was no defect in the notice and it was issued by the Competent Authority. Before the writ court, appellant had relied upon a survey report from a private surveyor which was rightly not considered as in the joint survey made by forest and revenue officers, appellant was found to have encroached upon reserved forest land.

8. Whether the land in question is in a revenue village or in a reserved forest, cannot be decided in a writ petition. There is no document regarding title over the land in question available with the appellant.

9. In such view of the matter, the Special Appeal fails and is dismissed.