

(2024) 08 UK CK 0085

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 2279 Of 2024

Sarjeet Singh And Another

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 29-08-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 133, 133(1), 134, 135, 136, 137

Citation : (2024) 08 UK CK 0085

Hon'ble Judges : Pankaj Purohit, J

Bench : Single Bench

Advocate : B.D. Kandpal, Dinesh Chandra Gahatori, Suyash Pant

Final Decision : Disposed Of

Judgement

Pankaj Purohit, J

1. Heard learned counsel for the parties.
2. By means of this writ petition, petitioners have sought the indulgence of this court for a direction to respondents to remove obstruction raised by respondent No.3 illegally on public road passing through village Etawwa Tehsil and Police Station Bazpur, district Udham Singh Nagar.
3. From the perusal of the record of the writ petition, it transpires that an application dated 11.03.2024 purportedly under Section 133 of Cr.P.C. was filed by the petitioner before SDM, Bazpur, District Udham Singh Nagar alleging therein that the respondent No.3-M/s Omcar Infratech Pvt. Ltd. has raised obstruction in the public road passing through Plot No.252 to 257, 248, 249, 240/1 Min, 255, 237, 257 in village Etawwa, Bazpur, which is a 10 feet wide public road. The application was supported by the settlement map of the village Etawwa, which clearly shows the said way as public way.
4. It appears that SDM, Bazpur District Udham Singh Nagar, instead of proceeding with the application under Chapter X(B)-Public Nuisance, & Section

133 onward, of Cr.P.C., called for the report from Tehsildar. Since, then nothing has been done in the said matter.

5. From the perusal of the application dated 11.03.2024, it is reflected that the complete information was supplied by the petitioners to SDM Bazpur, district Udham Singh Nagar to invoke the jurisdiction under Section 133 to 137 of Cr.P.C., but he misread the provisions and sent the said application for calling upon report from the Tehsildar.

6. In this view of the matter, writ petition is disposed of with a direction to SDM Bazpur, District Udham Singh Nagar to proceed with the application strictly in accordance with the provision contained in Chapter X(B)-Public Nuisance, Section 133 to Section 137 of Cr.P.C., expeditiously and, if required, may pass conditional order under Section 133(1) of Cr.P.C.

7. Pending application, if any, also stands disposed of.