
(2010) 12 UK CK 0081

In the Uttarakhand High Court

Case No : Writ Petition No. 1126 of 2006

Suresh Kumar and Others

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 08-12-2010

Acts Referred:

Uttar Pradesh Lokayukta and Up-Lokayuktas Act, 1975 — Section 7

Citation : (2010) 12 UK CK 0081

Hon'ble Judges : Brahma Singh Verma, J

Bench : Single Bench

Judgement

B.S. Verma, J.—Pleadings have been exchanged by parties.

2. Admit.

3. Heard Mr. Alok Mehra Advocate for the Petitioners and Mr. P.C. Bisht, learned Brief Holder for Respondents 1 to 3 and 6.

4. By means of this petition the Petitioners have sought the following relief-

1. to issue a writ in the nature of certiorari for quashing the impugned order dated 24-5-2006 passed by Lokayukt, Uttaranchal contained in annexure No. 5 to the writ petition.

2. to issue a writ in the nature of mandamus restraining the Respondents 1, 2 and 3 from interfering with the Petitioners' peaceful possession over plot Nos. 75 and 237 situate in village Dalpura Tehsil Gadarpur, District Udham Singh Nagar.

5. The grievance of the Petitioners is that they are in continuous peaceful possession over plot Nos. 75 and 237 (old plot Nos. 66/1 and 16 respectively) situate in village Dalpura, tehsil Gadarpur, District U.S. Nagar. The Lokayukt Uttaranchal without affording an opportunity of hearing to the Petitioners has passed the impugned order dated 24.5.2006, whereby the Lokayukt on the complaint of Kunwar Singh has directed the District Magistrate Udham Singh Nagar to conduct inquiry in the matter of handing over possession of land to the

persons in whose favour land was allotted, after calling all parties and submit his report within ten weeks.

6. Learned Counsel appearing on behalf of the Petitioners has submitted that the dispute in the instant case is between two private parties and the Lokayukt has no power to take cognisance in the matter.

7. Section 7 of Uttar Pradesh Lokayukta and Up-Lokayuktas Act, 1975, deals with the matters which may be investigated by Lokayukta or Up-Lokayukta, which runs as under-

7. Matters which may be investigated by Lokayukta or Up-Lokayukta- (1) Subject to the provisions of this Act and on a complaint involving a grievance or an allegation being made in that behalf, the Lokayukta may investigate any action which is taken by, or with the general or specific approval of-

(i) a Minister or a Secretary; and

(ii) any public servant referred to in Sub-clause (ii) or Sub-clause (iv) of Clause (j) of Section 2; or

(iii) any other public servant being a public servant of a class or sub-class of public servants notified by the State government in consultation with the Lokayukta, in this behalf.

(2) Subject to the provisions of this Act and on a complaint involving a grievance or an allegation being made in that behalf, an Up-Lokayukta may investigate any action which is taken by or with the general or specific approval of any public servant not being a Minister, Secretary or other public servant referred to in Sub-section (1).

(3) Notwithstanding anything contained in Sub-section (2), the Lokayukta may, for reasons to be recorded in writing, investigate any action which may be investigated by an Up-Lokayukta under that Sub-section.

(4) Where two or more Up-Lokayukta are appointed under this Act, the Lokayukta may, by general or special order, assign to each of them matters which may be investigated by them under this Act:

Provided that no investigation made by an Up-Lokayukta under this Act, and no action taken or thing done by him in respect of such investigation shall be open to question on the ground only that such investigation related to a matter which is not assigned to him by such order.

8. In the instant case complainant Kunwar Singh has made complaint against the Petitioners, who are not public servants, rather they are private parties. Therefore, in view of above specific provisions of Act, the impugned order passed by Lokayukta is without jurisdiction and the same is liable to be quashed.

9. The writ petition is partly allowed. So far as the impugned order dated 24-5-2006, contained in Annexure No. 5 to the writ petition passed by Lokayukta/

Respondent No. 6 is concerned, the same is hereby quashed.

10. As regards the relief-(2) claimed by the Petitioners is concerned, the same cannot be granted in writ jurisdiction and the proper recourse for the Petitioners for restraining the Respondents from interfering with their possession over disputed plots, is to file civil suit.