

(2024) 10 UK CK 0049

In the Uttarakhand High Court

Case No : Writ Petition Miscellaneous Single No. 2258 Of 2024

Taruna Tyagi And Others

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 16-10-2024

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2024) 10 UK CK 0049

Hon'ble Judges : Pankaj Purohit, J

Bench : Single Bench

Advocate : Chandra Shekhar, Harshit Sanwal, Anil Dabral, Suyash Pant, Ashish Joshi, Vinay Garg, Rahul Consul

Final Decision : Dismissed

Judgement

Pankaj Purohit, J

1. Heard learned counsel for the parties.
2. By means of this writ petition filed under Article 226 of the Constitution of India, petitioners have sought the indulgence of this Court for issuance of writ of mandamus commanding the respondents not to interfere in the petitioners' possession, occupation and enjoyment of their respective plots situated in Plot No.378-Ka, Village Brahnmanwala, Dehradun.
3. It is the case of the petitioners that the petitioners purchased the land subject-matter of the writ petition from the legal heirs of one-Dalip Singh, who was a member of Scheduled Caste, during 2013-2022. The petitioners from the date of purchase of the land in-question are in possession of the aforesaid land. It is submitted by learned counsel for the petitioners that some of the petitioners names have also been mutated in the revenue records. He also submitted that the respondent-State had initiated the eviction proceedings against the predecessors of the petitioners, who are Prem Singh and Chhotu, through their legal guardian mother Smt. Suraji Devi widow of Dalip Singh, who was the

original allottee of the land of Gram Sabha. The said eviction proceeding culminated into the eviction of the predecessors of the petitioners vide judgment and order dated 08.03.2016 passed by learned Assistant Collector First Class/SDM (Sadar), Dehradun.

4. Feeling aggrieved by the said eviction order dated 08.03.2016 passed by learned Assistant Collector First Class/SDM (Sadar), Dehradun, petitioners preferred a revision petition before the learned Additional Commissioner, Garhwal Division, which was registered as Revision No.83/2015-2016. Learned Additional Commissioner, Garhwal Division partly allowed the revision and remanded the matter back to the Court of learned Assistant Collector First Class/SDM (Sadar), Dehradun, vide order dated 24.08.2018.

5. It is contended by learned counsel for the petitioners that after remand of the revision, no progress has been made in the said revision and he is not sure as to whether the revision is decided or is pending before the Court of learned Assistant Collector First Class/SDM (Sadar), Dehradun, regarding the eviction of the proceedings.

6. As against the arguments submitted by the learned counsel for the petitioners, learned counsel for the respondent No.3-MDDA has submitted that actually the eviction of the petitioners was not made vide order dated 08.03.2016, rather the eviction was already made by the Court of learned Assistant Collector First Class/SDM (Sadar), Dehradun vide order dated 14.06.2010, which order was affirmed by a Coordinate Bench of this Court in WPMS No.2801 of 2015 Sadbhavi Phal Evam Subzi Kalyan Samiti Vs. State of Uttarakhand and Others, vide judgment and order dated 25.06.2019.

7. It is also submitted by him that against the judgment and order dated 25.06.2019 passed by this Court, SLP (C)No.24324/2019 was filed by the petitioners of that writ petition. The said SLP was dismissed as withdrawn, vide order dated 04.11.2019. Subsequently, the review application No.1126 of 2019 was filed in WPMS No.2801 of 2015 for reviewing the order dated 25.06.2019, but, the said review application was also rejected by this Court on 19.11.2019. Thereafter, the petitioners again filed SLP (C) No.44841/2019 against this order and this SLP was again dismissed on 06.01.2020.

8. It is vehemently submitted by learned counsel for the respondent No.3-MDDA that the petitioners are reagitating the issue, which has already been settled, by filing the present writ petition.

9. Learned counsel for the petitioners has disputed the submission made by learned counsel for respondent No.3-MDDA saying that in the eviction order passed by the learned Assistant Collector First Class/SDM (Sadar), Dehradun dated 14.06.2010, there is no mention of the Plot No.378-Ka of the predecessors of the petitioners, therefore, it cannot be said that the petitioners were evicted from there.

10. This fact is easily negated by this Court for the reason that at Pg. No.14 of the connected writ petition (M/S) No.2801 of 2015, it is expressly clear from the record that predecessors of the petitioners are member of the Sadbhavi Phal Evam Subzi Kalyan Samiti and he challenged the order dated 14.06.2010 by filing ultimately the writ petition. This Court doesn't find any substance in the submission made by learned counsel for the petitioners.

10. Be that as it may. This Court also finds that the relief, which has been claimed by the petitioners in the writ petition, is in substance in the nature of injunction, which can only be granted by the Civil Court after sifting the evidences and recording the evidence on the disputed facts. This writ petition involves various disputed facts between the parties. This Court in writ jurisdiction cannot enter into the disputed question of facts and therefore, this Court declines to invoke the extraordinary jurisdiction enshrined under Article 226 of the Constitution of India.

11. In view of the above, the present writ petition is dismissed at admission stage.

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