
(2011) 03 UK CK 0108

In the Uttarakhand High Court

Case No : Writ Petition (Pil) No. 105 of 2009

Zafar Chaudhary and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 10-03-2011

Acts Referred:

Citation : (2011) 03 UK CK 0108

Hon'ble Judges : Barin Ghosh, C.J;Sudhanshu Dhulia, J

Bench : Division Bench

Judgement

Barin Ghosh, C.J.—In order to construct the national highway, a certain stretch of land was acquired. In the present writ petition, amongst others, it was contended that on the acquired land encroachments have been made. The Court accordingly directed removal of those encroachments. The State has filed a compliance report in the form of an affidavit and therein it has contended that all those encroachments have been removed. The Petitioners, who had an opportunity to deal with the said affidavit, have not dealt with the same and accordingly there is no just reason for us not to accept the contention of the State that such encroachments have been removed. Mr. Jitendra Chaudhary, appearing on behalf of Mr. Pradeep Kumar, Mr. Ashok Kumar and Mr. Brijesh Kumar, in connection with an impleadment application, is contending that while carrying out the exercise of removal of encroachers from the said national highway, the State has demolished part of the construction of his clients which did not encroach any part of the national highway. If that be so, we grant express leave to the clients of Mr. Jitendra Chaudhary to take such recourse to law, as is available to his clients.

2. In addition to encroachments on the said national highway, the Petitioners have contended in the writ petition that there are other encroachments on various public lands situate in the town known as Jaspur. In the writ petition, it has not been brought on record, the specific allocation of such public lands as well as the area thereof. In the circumstances, it will not be appropriate on the part of this Court, at this stage, to take any action in relation to complaints

pertaining to encroachment of such lands. It would be open to the Petitioners to make appropriate representation to those authorities, who by law are required to protect such public lands, for the purpose of removal of encroachments there from. In the event, despite an appropriate case having been made out by or on behalf of the Petitioners for removal of such encroachments, the authorities concerned refuse to take any action on the basis of the request to be made by or on behalf of the Petitioners, it shall be open to the Petitioners to re-approach this Court. Learned Counsel appearing on behalf of National Highways Authority of India submitted that National Highways Authority of India has prepared a project report/Feasibility Report for a bye-pass to the existing national highway in order to bye-pass the town through which the present national highway runs. If the scheme for the said bye-pass is feasible, it is expected that appropriate steps shall be taken to construct the bye-pass at an early date.

3. With the observations as above, writ petition is disposed of.

4. All applications stand disposed of.