

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			WPMS 1354/ 2016 WPMS 1349/ 2016 WPMS 1352/ 2016 WPMS 1353/ 2016 <u>Hon'ble Manoj Kumar Tiwari, A.C.J.</u> Mr. B.D. Pande, Mr. Pulak Agarwal and Mr. Bharat Tiwari, Counsel for the petitioners. Mr. Rajesh Pandey, Standing Counsel, for the State. Mr. Asif Ali, Advocate, for the intervener. (2) Since common question of fact and law are involved in these writ petitions, therefore, these are being heard and decided together. However, for the sake of brevity, the facts of Writ Petition No. 1354/2016 (M/S) alone are being considered and discussed. (3) Petitioner was granted lease of land under Government Grants Act for agricultural purposes in the year 1988. On the strength of lease of land, petitioner's name was recorded in Category 1-Kha in the revenue records. According to petitioner, Assistant Collector, 1st Class, Khatima, District Udham Singh Nagar passed an order on 13.6.2011, whereby petitioner's name was recorded in Category 1-A in the revenue records. Category 1-A refers to <i>bhumidhari</i> land with transferable rights, while Category 1-B, in which petitioner's

			name was earlier recorded in revenue records, refers to <i>bhumidhari</i> land with non-transferable rights. However, petitioner's Category in revenue records, in respect of the land in question, was altered from 1-A to 1-B by the concerned Assistant Collector vide order dated 15.1.2015. Petitioner challenged the said order dated 15.1.2015 by filing a revision petition, which was dismissed by Commissioner, Kumaon Division vide judgment dated 9.3.2016. The orders passed by the Assistant Collector and Commissioner, Kumaon Division are put to challenge in the writ petition filed under Article 227 of the Constitution. (4) Learned Counsel for the petitioners submits that as the Assistant Collector has entered name of petitioner in revenue record in Category 1-A by an order dated 13.6.2011 by relying upon a government order, therefore, the Assistant Collector could not have reviewed his own order for changing petitioner's Category from 1-A to 1-B. (5) Learned State Counsel, however, submits that the earlier order passed by the Assistant Collector on 13.6.2011 is not a judicial order passed in exercise of any statutory power, but it is purely an administrative order, which refers to a government order. He further submits that subsequent order dated 15.1.2015, which is put to challenge by petitioner in this writ petition, is also an administrative order, whereby earlier order, which was passed by the Assistant Collector, was corrected. He refers to
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			Section 133-A of the U.P.Z.A. & L.R. Act, which is reproduced below:- <i>“133-A. Government lessees. - Every person to whom land has been let out by the State Government shall be called a Government lessee in respect of such land and shall, notwithstanding anything to the contrary contained in this Act, be entitled to hold the same in accordance with the terms and conditions of the lease relating thereto.”</i> (6) Clause (5) of the lease deed stipulates that the lessee shall neither transfer the possession of the land leased out to him nor will he sell the land nor create sub-lease/mortgage. Thus, any kind of transfer is prohibited by Clause (5) of the lease deed. (7) Section 133-A of U.P.Z.A.& L.R. Act, in specific terms, provides that the terms and conditions of the lease granted by the State Government to a private individual will be determinative of the rights of a lessee. Thus, a lease-hold right granted under Government Grants Act cannot be upgraded to that of a <i>bhumidhari</i> with transferable rights. The earlier order passed by the Assistant Collector was in violation of Section 133-A of U.P.Z.A. & L.R. Act, therefore, it was rightly corrected by the Assistant Collector by passing the subsequent order dated 15.1.2015, which is impugned in the writ petition. Commissioner, Kumaon Division, thus, was justified in dismissing the revision preferred by the petitioner.
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			(8) For the reasons recorded above, this Court does not find any merit in these writ petitions. Accordingly, writ petitions fail and are dismissed. (Manoj Kumar Tiwari) A.C.J. 22.12.2023 Pr
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