

IN THE HIGH COURT OF UTTARAKHAND

AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI VIPIN SANGHI

AND

HON'BLE SRI JUSTICE RAKESH THAPLIYAL

WRIT PETITION (M/B) NO. 93 OF 2023

13TH JUNE, 2023

BETWEEN:

Vijendra Singh Petitioner.

And

State of Uttarakhand & others Respondents.

With

WRIT PETITION (M/B) NO. 96 OF 2023

BETWEEN:

Ramnath Singh Petitioner.

And

State of Uttarakhand & others Respondents.

Counsel for the Petitioner(s) : Mr. K.S. Bora and Mr. Mohit Kumar, learned counsels.

Counsel for the Respondents : Mr. Amarendra Pratap Singh, learned Additional Advocate General.

The Court made the following:

COMMON JUDGMENT:(per Hon'ble The Chief Justice Sri Vipin Sanghi)

Issue notice. Learned counsel appears and accepts notice on behalf of the respondents.

2. The petitioners, in both the writ petitions, have preferred the present writ petitions to seek quashing of the notice/ order dated 31.05.2023, wherein the respondent-authorities have alleged that the petitioners are encroaching on government land falling in Khasra No.101, which is the

land of the pond within the Village Nadehi, Tehsil Jaspur, District Udham Singh Nagar.

3. The petitioners have been called upon to remove their encroachments from the said government land, failing which, the respondents have stated that they would remove the encroachments at the expense of the petitioners.

4. The case of the petitioners is that they are the residents of the said village and they have their houses falling in Khasra No.107M. Both the petitioners have placed on record Khatauni which records the names of their predecessors-in-interest in respect of Khasra No.107M. The petitioners have also placed on record photographs, apart from the Sajra map, to show that Khasra No.107M is distinct from Khasra No.101, in respect whereof, the impugned notice/ order has been issued.

5. The impugned notice/ order makes the reference to an earlier public information/ notice displayed by the respondents on 07.05.2022.

6. From the record, it appears that the petitioners have responded to the said public information/ notice stating that they are having their houses in Khasra No.107M and not in Khasra No.101. The petitioners state that no orders have been passed thereafter, and now the respondents are

proposing to carry out demolition of their houses falling in Khasra No.107M.

7. The petitioners have placed on record photographs of their premises.

8. We dispose of these writ petitions with a direction to the respondent-authorities to examine the said plea of the petitioners before proceeding to carry out any demolition activity in respect of the properties of the petitioners. The respondents should demarcate the properties claimed by the petitioners to determine whether the same fall in Khasra No.107M, as claimed by the petitioners, or in Khasra No.101, as claimed by the respondents. Only if they are found to fall in Khasra No.101, as claimed by the respondents, after passing a reasoned/ speaking order, which should be communicated to the petitioners, further action in accordance with law, may be taken.

9. The writ petitions stands disposed of in the aforesaid terms.

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

(VIPIN SANGHI, C.J.)

(RAKESH THAPLIYAL, J.)

Dated: 13th June, 2023

NISHANT