

Sl. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			CLCON No.279 of 2023 With CLCON No.280 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Kartikey Hari Gupta, Advocate, for the applicant. Mr. J.S. Bisht, Standing Counsel, for the respondent. These are the two contempt petitions, which arises out of the interim orders dated 26.07.2023, as passed in WPMS No.2076 of 2023, "Gulshan Bhanot and others Vs. State of Uttarakhand and others", and the interim order dated 19.09.2023, as passed in WPMS No.2468 of 2023, "Darshna and others Vs. State of Uttarakhand and others". In both these writ petitions, the petitioners have put a challenge to the impugned order of 19.07.2023, as it was passed by the respondents, intending to demolish the construction, which the petitioners contend, that they are occupying. The same was the intention of the order dated 19.07.2023, as put to challenge to the connected writ petition referred to hereinabove. It goes without saying, that once the coordinate Bench of the Hon'ble High Court by virtue of an interim order has stayed the effect and operation of the order dated 19.07.2023, it

			will be understood, that no demolition action could be taken by the respondent on the basis of the said impugned order. Even till date, it is not the case of the petitioners in the contempt petitions, that the demolition has taken place by the respondents in violation of the interim orders, and the said fact stands fortified by the instructions, which has been received by the counsel for the respondent from the respondents, that according to the communication made by the District Magistrate to the office of the Chief Standing Counsel, vide its two Communications No.1307, dated 05.10.2023 and 1308, dated 05.10.2023. It has specifically stated, that no demolition action is being taken against the petitioner after the orders being passed on 26.07.2023. Thus, there happens to be no immediate apprehension or an apparent non compliance of the interim orders passed on 26.07.2023. Besides this, the controversy has to be looked into from another prospective, that in both these writ petitions, the respondents have already put an appearance and they have filed their counter affidavits. In accordance with the judgment rendered by the Hon'ble Apex Court as reported in 1992 (4) SCC 167, "State of Jammu and Kashmir Vs. Mohd. Yakub Khan and another", where it is provided, that so long the stay matter in the writ petition has not been finally disposed of, the
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			carrying of the contempt proceedings in itself is misconceived and no orders, therein, should be passed. It has been observed in paragraph nos.5 and 6, of the said judgment, that the scope of the contempt proceeding is much different from that of the pending main case, which is yet to be heard on merits and to be disposed of in future. In paragraph 6, the Hon'ble Apex Court has observed, that the scope of the contempt is different to that of the pending writ petitions, where the main issue is yet to be decided on merits, and at an interim stage, when the interim order has been granted and the matter is being contested after filing of the counter affidavit. Until and unless, the interim matters is decided finally by the coordinate Bench, no apparent contempt should be made out, nor even it is the case of the petitioners in the contempt petition that in pursuance to the order dated 26.07.2023 and 19.09.2023, any act of demolition has taken by the respondent, which was intended by the impugned order dated 19.07.2023. Hence, there happens to be no apparent contempt as such made out against the respondent, for which they could be summoned in the contempt petitions. Hence, I don't find any merit in the contempt petitions. The same are accordingly dismissed. (Sharad Kumar Sharma, J.) 05.10.2023 NR
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