



HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE THE ACTING CHIEF JUSTICE SRI MANOJ KUMAR TIWARI
AND
HON'BLE SRI JUSTICE PANKAJ PUROHIT

Writ Petition (PIL) No. 59 of 2019

23 December, 2024

Bhupendra Singh Suryavanshi --Petitioner

Versus

State Of Uttarakhand and others --Respondent

None for petitioner

Mr. Gajendra Tripathi, learned Standing Counsel for
State of Uttarakhand/respondent Nos. 1 to 5.

Mr. Ashish Joshi, learned counsel Nagar Nigam
/respondent No. 6.

Mr. B.D. Pande, learned counsel for respondent No. 7

The Court made the following:

JUDGMENT: (per Hon'ble The Acting Chief Justice Sri Manoj Kumar Tiwari)

1. According to petitioner, respondent No. 7 made application for conversion of leasehold rights to freehold right over piece of land situate at Kathgodam, District Nainital and the said application was allowed and a freehold deed was executed between District Magistrate, Nainital and respondent No. 7, in the year 2016.

2. Grievance raised by petitioner is that, under the garb of freehold right, respondent No. 7 has encroached upon a passage, which connects residents of the locality to Nainital-Bareilly Highway. Thus, he submits that freehold rights cannot be given in respect



of public path.

3. Learned Standing Counsel, by referring to paragraph No. 4 of the counter affidavit dated 28.09.2019 filed by Mr. Prahalad Ram, Tehsildar, Haldwani, District Nainital, submits that there is no record regarding public path, therefore, the allegation that freehold right has been given to respondent No. 7, even in respect of public path, is incorrect. He further submits that respondent No. 7 has given an affidavit before District Magistrate that in case the land, regarding which freehold right is given to respondent No. 7, is required for widening of road, respondent No. 7 will handover the said land for the purpose of road widening.

4. Mr. Ashish Joshi, learned counsel appearing for Nagar Nigam/respondent No. 6 also refers to undertaking given by respondent No. 7 before District Magistrate that she will handover the land needed for road widening to the authorities, without raising any objection.

5. Annexure CA-2 to the counter affidavit filed by Mr. Chandra Singh Martolia, Municipal Commissioner, Nagar Nigam, Haldwani is a letter issued by Executive Engineer, National Highway Division, PWD, Haldwani, which was addressed to Executive Officer, Nagar Palika Parishad, Haldwani. Perusal of the said letter dated 05.05.2011 reveals that Public Works Department had refused to grant NOC for grant of freehold rights to respondent No. 7 on the ground that the land in question would be needed for road widening. The



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undertaking given by respondent No. 7, in the form of an affidavit, is enclosed as Annexure-3 to the said counter affidavit.

6. In view of unequivocal stand taken by State Authorities that freehold rights have not been given in favour of respondent No. 7, in respect of any public path, therefore, this Court is of the considered opinion that no useful purpose would be served by keeping this writ petition pending. However, respondent No. 7 shall be bound by her undertaking given before the authorities and she will handover the land/building to the National Highway Division for expansion of the highway, as and when needed. As regards allegation of encroachment over public path, petitioner shall be at liberty to seek remedy before appropriate forum.

7. With the aforesaid observation, this Public Interest Litigation is closed.

MANOJ KUMAR TIWARI, A.C.J.

PANKAJ PUROHIT, J.

Dt: 23RD December, 2024
Mahinder