



2024:UHC:9931

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			WPMS No. 3559 of 2024 <u>Hon'ble Manoj Kumar Tiwari, A.C.J.</u> Mr. Himanshu Joshi, Advocate for the petitioner. 2. Mr. Rajesh Pandey & Mr. Yogesh Chandra Tiwari, Standing Counsel for the State of Uttarakhand. 3. Petitioner has challenged the eviction order passed by Prescribed Authority under U.P. Public Premises (Eviction of Unauthorised Occupants) Act, 1972. He has also challenged the judgment rendered by learned District Judge in Misc. Appeal No. 100 of 2023. 4. It transpires that a notice under Section 4(1) of the aforesaid Act was issued to petitioner, alleging that he is in unauthorised occupation over public land and he was called upon to show cause as to why eviction order be not passed against him. Petitioner filed objection against the said notice, however, thereafter, neither petitioner appeared before the Prescribed Authority nor did he led any evidence for the purpose. Learned Prescribed Authority passed eviction order against petitioner on 01.06.2023. Petitioner filed Appeal under Section 9 of the aforesaid Act, which has been dismissed by learned District Judge, Tehri Garhwal, vide judgment dated 28.10.2024. Challenging these two judgment and orders, petitioner has approached this



		Court. 5. Learned counsel for the petitioner submits that the notice under Section 4(1) was issued to petitioner, without proper measurement of the land. He further submitted that affidavit of the examination-in-chief of the witnesses was not filed before the Prescribed Authority, therefore, the impugned eviction order is unsustainable in the eyes of law. He further submitted that petitioner has long continuous possession over the land in question, therefore, he could not have been ordered to be evicted therefrom in summary proceedings. 6. Per contra, learned State Counsel submits that notice was issued to petitioner after proper measurement of the land found to be encroached upon by him. He further submits that proceedings under the aforesaid Act are summary in nature and there is no requirement of filing affidavit of examination-in-chief of the witnesses before the Prescribed Authority. He further submits that possession, howsoever long, over public land does not create any right in favour of the trespasser and his status remains that of a trespasser, who can be removed any time. He further submits that petitioner do not claim title over the land in question and he only asserted his possession thereupon and learned Prescribed Authority was justified in passing order of eviction against him. He further submits that learned Prescribed Authority has considered
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		each and every aspect of the matter and has passed the reasoned order against the petitioner, which was rightly affirmed by learned District Judge in Appeal. 7. Perused the judgment and order passed by Prescribed Authority as well as learned District Judge. Since learned Prescribed Authority has considered the relevant aspect and has passed eviction order, as per law, therefore, this Court does not find any reason to interfere with the same. Learned District Judge was thus justified in dismissing the appeal filed by petitioner. 8. Thus, this court declines to interfere in the matter. 9. Learned counsel for petitioner then submitted that petitioner has constructed a residential house over the land in question and there is no other place available to petitioner to reside, hence, he be given two and half years time for vacating the land in question. 10. Learned State Counsel, however, submitted that two and half years, as prayed by petitioner, is too long a period and this Court may grant some reasonable time for vacating the land. 11. The writ petition is, accordingly, disposed of by permitting petitioner to vacate the land in question, within eighteen months. Petitioner shall file an undertaking to this effect in the shape of an affidavit before learned Prescribed Authority, within three
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			weeks from today. In the event, petitioner fails to file such an affidavit within the stipulated period; he shall be liable to be evicted forthwith. (Manoj Kumar Tiwari, A.C.J.) 24.12.2024 Navin NAVEEN CHANDRA Digitally signed by NAVEEN CHANDRA DN: c=IN, o=HIGH COURT OF UTTARAKHAND, ou=HIGH COURT OF UTTARAKHAND, 2.5.4.20=33a2332514676a0642b0f49433b0d46687d006da8 2a1310a4a4603f3c0a15, postalCode=262001, st=UTTARAKHAND, serialNumber=1816733750C4507D421A103819DAB7346A F50K6E5D0FFC6ED9AB6DAAB21CE5, cn=NAVEEN CHANDRA Date: 2024.12.26 10:05:59 +05'30'
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