



2025:UHC:1579-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

JUSTICE SHRI MANOJ KUMAR TIWARI

AND

JUSTICE SHRI VIVEK BHARTI SHARMA

Special Appeal No. 430 of 2014

07 March, 2025

Nagar Palika Parishad

--Appellant

Versus

State of Uttarakhand & Another

--Respondents

Presence:-

Mr. B. D. Pande, learned counsel for the appellant.

Mr. Pooran Singh Bisht, learned Addl. Chief Standing Counsel for the State.

JUDGMENT: (per Shri Manoj Kumar Tiwari, J.)

Nagar Palika Parishad, Ramnagar has filed this intra-court appeal, challenging the final order dated 21.07.2014, passed by learned Single Judge in Writ Petition (M/S) No. 1015 of 2009.

2. By the said judgment, writ petition, filed by Nagar Palika Parishad challenging the order dated 10.06.2009, passed by District Magistrate, Nainital, was dismissed. By the order dated 10.06.2009, District Magistrate had restrained Nagar Palika Parishad from effecting mutation regarding transfer of *Nazul* land without prior permission of the District Magistrate. It was further provided that proposal for mutation regarding succession/free hold etc. shall not be sent without



recommendation of the concerned Sub-Divisional Magistrate/Executive Officer and mutation shall be done only after approval from the office of District Magistrate.

3. Learned Single Judge relied upon the provision contained in Rule 58 of the *Nazul* Manual for rejecting the challenge to the order passed by District Magistrate and held that as per the said provision, transfer or lease of *Nazul* property can be made only after getting approval of the Collector/Commissioner/State Government and further that Collector is empowered to sanction or not to sanction, transfer of lease hold right over *Nazul* land. It was further held that power of the Municipality to carry out mutation was not taken away by order passed by District Magistrate and by the said order, it was provided that mutation shall not be carried out by succession or transfer, unless the Competent Authority grants approval after examining authenticity of the alleged transfer/succession.

4. We do not find any reason to interfere with the order passed by learned Single Judge, as *Nazul* land belongs to the State Government and Municipality has been assigned role of caretaker in respect of *Nazul* land. State Government used to grant lease for residential or other purpose as specified in the lease deed and such lease was normally given for 30 years and in every lease deed, there was a condition that the lease land cannot be transferred without prior permission of District Magistrate.

5. On 01.03.2009, State Government came out with the policy for giving free hold right over *Nazul* land



2025:UHC:1579-DB

to the lease holders. The Government Order dated 01.03.2009 contained detailed provisions for dealing with *Nazul* land. Since complaints were received regarding unauthorized transfer of *Nazul* land by unscrupulous persons, in violation of the conditions of the lease deed and also in violation of Government Order dated 01.03.2009, therefore, the District Magistrate, Nainital had to intervene by issuing the order dated 10.06.2009, which was challenged in Writ Petition (M/S) No. 1015 of 2009.

6. Since State Government is the owner of *Nazul* land and District Magistrate is responsible for safeguarding the interest of the State Government, therefore, the District Magistrate, Nainital had issued the order dated 10.06.2009 to check the irregular/illegal transactions, which were affecting public interest. Status of Nagar Palika Parishad is that of caretaker in respect of *Nazul* land, therefore, it cannot have any grievance against the order passed by District Magistrate, which was issued in order to protect *Nazul* land. The order passed by the District Magistrate, does not affect the power of Municipality as has been held by learned Single Judge. Thus, there is no scope for interference with the impugned order.

7. In such view of the matter, the Special Appeal fails and is dismissed.

(VivekBharti Sharma, J.)
07.03.2025

(Manoj Kumar Tiwari, J.)
07.03.2025

Akash