

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE SRI JUSTICE MANOJ KUMAR TIWARI
AND
HON'BLE SRI JUSTICE VIVEK BHARTI SHARMA

4TH MARCH, 2025

SPECIAL APPEAL NO. 1031 OF 2019

Anurag Singhal ...Appellant

Versus

State of Uttarakhand & others ...Respondents

Counsel for the Appellant: Mr. Aditya Singh, learned counsel.

Counsel for respondents: Mr. Devendra Singh Bora, Standing
Counsel for the State of Uttarakhand.

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

This intra court appeal is directed against the final order dated 25.06.2019 passed by learned Single Judge in Writ Petition (M/S) No. 1491 of 2013. By the said order, writ petition filed by the petitioner was dismissed on the ground of delay and laches. In his writ petition, appellant had sought the following relief:-

“(I) Issue a writ, order or direction in the nature of mandamus commanding the respondents to revert back the land taken in excess to the extent of 0.051 hectares of Khata No.13 Khet no.392 to the acquisition proceedings initiated in

pursuance to the notification under Section 4 dated 19.04.2004.

(II) Issue a writ, order or direction in the nature of mandamus commanding the respondents to pay damages to the petitioner for unauthorized user of the land from the date of taking over of possession on 21.03.2005 till the date of passing of the judgment in the present writ petition.”

2. Appellant, in his writ petition, contended that proceedings for land acquisition were initiated in respect of 0.355 hectare land in Khasra No. 392, Village Salempur Mehdood, Tehsil Roorkee, District Haridwar, however, the authorities of Rehabilitation Department took possession of land, in excess of the area, indicated in the notification issued under Section 4 of the Land Acquisition Act.

3. The respondents have filed counter affidavit, in which, statement made by the writ petitioner regarding respondents taking possession over excess land is denied.

4. It is not in dispute that appellant-writ petitioner received compensation for the acquired land. Appellant contends that land in excess of the area indicated in the notification issued under Section 4 of Land Acquisition Act was taken by the State Authorities, which is unauthorizedly occupied by State Department. The respondents have denied the said allegation and stated that possession was taken only of the acquired land, as indicated in the notification issued under Section 4 of the Act. This becomes a disputed question of fact, which cannot be decided in a writ

petition.

5. Since the appellant has raised a grievance that he has not been paid compensation for the entire land, which was taken by the State Authorities, therefore, he cannot be non-suited for seeking relief only on the ground of delay and laches, therefore, we allow the Appeal; set aside the final order dated 25.06.2019 passed by learned Single Judge. Having regard to the factual dispute between the parties, appellant shall be at liberty to approach a competent Civil Court for seeking appropriate relief.

MANOJ KUMAR TIWARI J.

VIVEK BHARTI SHARMA, J.

Dt: 04.03.2025
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