



2025:UHC:10055

Judgement Reserved on: 03.09.2025

Judgement Delivered on: 13.11.2025

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (M/S) No. 3627 of 2023

Gopal Krishna Jha

... Petitioner

Versus

Shri 108 Pujoyapad Advet Panch Parmeshwar

Panchayati Akhara Naya Udasin Kankhal

... Respondent

With

Writ Petition (M/S) No.3634 of 2023

Abhishek Jha

... Petitioner

Versus

Shri 108 Pujoyapad Advet Panch Parmeshwar

Panchayati Akhara Naya Udasin Kankhal

... Respondent

Presence: Mr. Nagesh Aggarwal, learned counsel for the Petitioners
Mr. Nikhil Singhal, learned counsel for the Respondent

Hon'ble Ashish Naithani, J.

1. These two writ petitions, arising out of connected Small Cause Court proceedings between the same parties and involving substantially identical questions of law and fact, are being decided together. Both petitions challenge the judgments and decrees passed by the trial court in separate SCC suits relating to the Petitioners' tenancy over small shop premises at Kankhal, Haridwar, as well as the dismissal of the corresponding revisions by the learned II Additional District Judge, Haridwar, by orders dated 01.09.2023.



2. Since the core issue in both matters concerns the applicability of Section 2(1)(bb) of the U.P. Act No. 13 of 1972 and the effect of an earlier adjudication dated 01.12.2014 determining the Respondent-ashram's legal character, a common judgment is warranted.

3. In WPMS 3627 of 2023, the challenge is to the decree dated 20.12.2018 in S.C.C. Suit No. 8 of 2015, affirmed on 01.09.2023 in S.C.C. Revision No. 3 of 2019 by the II Additional District Judge, Haridwar.

4. In WPMS 3634 of 2023, the challenge is to the decree dated 20.12.2018 in S.C.C. Suit No. 20 of 2014, affirmed on 01.09.2023 in S.C.C. Revision No. 2 of 2019 by the II Additional District Judge, Haridwar.

5. Both the writ petitions arise out of substantially similar facts, involve common questions of law, and pertain to the same Respondent-ashram. Hence, they are being decided together by this common judgment.

6. The dispute in both petitions pertains to eviction proceedings initiated by the Respondent, *Shri 108 Pujiyapad Advet Panch Parmeshwar Panchayati Akhara Naya Udasin Kankhal*, against the Petitioners *Gopal Krishna Jha* and *Abhishek Jha*, who are tenants of small commercial shops situated at Kankhal, District Haridwar. The eviction suits were decreed in favour of the Respondent, and the subsequent revisions preferred by the Petitioners were dismissed, giving rise to the present proceedings.



7. The facts, as emerge from the record, are that the Respondent-ashram filed two separate suits, namely S.C.C. Suit No. 8 of 2015 and S.C.C. Suit No. 20 of 2014, before the Judge, Small Causes Court, Haridwar, seeking eviction of the Petitioners from the respective tenanted premises and recovery of arrears of rent and mesne profits.

8. The Respondent-ashram asserted that it was the owner and landlord of the suit properties and that the Petitioners were tenants therein on monthly rents of ₹600/- and ₹175/- respectively. It was further contended that the Respondent was a *religious and charitable institution*, duly registered, and was therefore exempted from the operation of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (hereinafter referred to as “the Act”), by virtue of Section 2(1)(bb) thereof.

9. The Petitioners contested the suits, denying the alleged exemption and asserting that the Respondent was merely a *registered society* under the Societies Registration Act, 1860, and not a charitable or religious institution within the meaning of the Act. It was further stated that they were lawful tenants, regularly paying rent, and that they were entitled to the benefit of Section 20(4) of the Act, having deposited the rent before the court on the first date of hearing.

10. It appears that prior to the filing of the aforesaid suits, one Misc. Suit No. 62 of 2014 (Abhishek Jha and another v. Shri 108 PujiyapadAdvet Panch Parmeshwar Panchayati Akhara Naya Udasin Kankhal) was instituted under Section 92 of the Code of



Civil Procedure, 1908, by the Petitioner Abhishek Jha and another, seeking to challenge the management of the Respondent-ashram by alleging misappropriation and misconduct.

11. In the said proceedings, the Respondent-ashram filed its written statement specifically denying that it was a *public religious charitable trust*, and asserting that it was a *society registered under the Societies Registration Act, 1860*. The learned District Judge, Haridwar, by judgment dated 01.12.2014, dismissed the suit holding that the Respondent-ashram was not a *public religious and charitable trust*. That order attained finality and was never assailed before any higher forum.

12. The trial court, while deciding the subsequent eviction suits, framed issues inter alia regarding the applicability of the Rent Control Act and the character of the Respondent-ashram. The trial court, however, decreed both suits by judgments dated 20.12.2018, holding that the Respondent was engaged in religious and charitable activities such as organising *bhandaras* during *Kumbh* and *Ardh Kumbh Melas*, and hence was entitled to exemption under Section 2(1)(bb) of the Act.

13. The Petitioners preferred revisions before the District Judge, Haridwar, which were numbered as S.C.C. Revision No. 2 of 2019 and S.C.C. Revision No. 3 of 2019. The said revisions were subsequently transferred to the Court of the 2nd Additional District Judge, Haridwar. They were dismissed by a common judgment dated 01.09.2023, thereby affirming the decrees of the trial court.



14. Aggrieved by the said judgments and decrees, the Petitioners have preferred the present writ petitions under Article 227 of the Constitution of India, contending that both the courts below committed a manifest error of law in holding the Respondent to be a charitable and religious institution, contrary to the binding finding recorded by the District Judge, Haridwar, in Misc. Suit No. 62 of 2014.

15. Heard learned counsel for the parties and perused the records.

16. Learned counsel for the Petitioners submitted that both the courts below have committed a grave error of law and fact in holding that the Respondent-ashram is a public religious and charitable institution entitled to exemption under Section 2(1)(bb) of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972.

17. It was argued that such a finding is directly contrary to the earlier judgment dated 01.12.2014 passed by the learned District Judge, Haridwar, in Misc. Suit No. 62 of 2014 (Abhishek Jha and another v. Shri 108 Pujiyapad Advet Panch Parmeshwar Panchayati Akhara Naya Udasin Kankhal), wherein it was categorically held that the Respondent is not a public religious or charitable trust. That judgment, it is submitted, attained finality as it was never challenged before any higher forum.

18. It was further contended that having once asserted in the said civil proceedings that it was a registered society under the Societies Registration Act, 1860, and not a trust, the Respondent is now



estopped from taking a contrary plea. The subsequent stand adopted by the Respondent, claiming itself to be a religious and charitable body, is inconsistent with its earlier position and offends the doctrine of estoppel by conduct as well as the principle of res judicata.

19. Learned counsel submitted that mere holding of bhandaras or offering public meals during Kumbh or Ardh Kumbh Mela cannot, by itself, render an institution charitable or religious within the meaning of Sections 3(r) and 3(s) of the Act. It was argued that the courts below failed to call for or consider any document evidencing registration or declaration of the Respondent as a religious or charitable trust, and hence, their findings are perverse and based on conjecture.

20. It was further contended on behalf of the Petitioners that proceedings before the Small Cause Court are summary in nature, and such a court cannot adjudicate upon complicated questions regarding legal status, character, or ownership of an institution. Once the competent civil court had already determined the nature of the Respondent in the earlier proceedings, the Small Cause Court could not have revisited that issue. The impugned orders, it was argued, therefore suffer from jurisdictional error.

21. The learned counsel submitted that the Petitioners are bona fide tenants, paying regular rent, and had complied with the requirements of Section 20(4) of the Act by tendering rent and arrears on the first date of hearing. Despite this, both courts below have denied them the statutory protection available under the Rent



Control Act. The findings, it was urged, are arbitrary, mechanical, and violative of settled principles of law.

22. Per contra, learned counsel for the Respondent supported the impugned judgments and orders. Learned counsel contended that both the courts below, after a detailed consideration of the pleadings and evidence, have concurrently held that the Respondent-ashram is engaged in religious and charitable activities for the benefit of the public at large. It was urged that the ashram regularly participates in religious congregations, organises bhandaras, and provides accommodation to saints and devotees during the Kumbh Mela, thereby fulfilling the character of a religious and charitable institution.

23. Learned counsel for the Respondent further submitted that the earlier civil proceedings of the year 2014 were filed by the Petitioners' own family members with an ulterior motive, and the findings recorded therein cannot bind the Respondent in the present eviction proceedings, as the nature and scope of both matters are distinct. It was also submitted that the Respondent's registration under the Societies Registration Act does not negate its charitable and religious character; rather, it is merely a legal formality for administrative purposes.

24. It was lastly argued that both the trial court and revisional court have returned concurrent findings of fact based on evidence, which cannot be reappreciated by this Court in exercise of its limited supervisory jurisdiction under Article 227 of the Constitution of India. The Respondent has obtained lawful decrees



of eviction, and the writ petitions have been filed only to delay the execution proceedings and prolong possession of the tenanted premises.

25. At this juncture, the controversy in both these petitions primarily revolves around the legal character of the Respondent-ashram and the consequent applicability of the provisions of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972, hereinafter referred to as “the Act”.

26. The issue that arises for consideration is whether the Respondent-ashram can be regarded as a public religious and charitable institution within the meaning of Section 2(1)(bb) read with Sections 3(r) and 3(s) of the Act, so as to be exempted from the operation of the Rent Control law, and further, whether the courts below were justified in arriving at such a conclusion despite the earlier civil court finding to the contrary.

27. Section 2(1)(bb) of the Act exempts from its operation any building belonging to or vested in a public charitable or public religious institution. The expressions “charitable institution” and “religious institution”, as defined under Sections 3(r) and 3(s) of the Act, require the institution to exist for the benefit of the public and to have objects which are predominantly charitable or religious in nature. It is thus incumbent upon the party claiming such exemption to establish, through credible and cogent evidence, that its dominant object and functioning are truly charitable or religious in character. The exemption is a matter of strict construction and cannot be presumed merely on account of occasional or incidental acts of charity or devotion.



28. In the present case, the Respondent-ashram has claimed to be a religious and charitable institution, relying mainly on the assertion that it participates in religious congregations and holds *bhandaras* during the Kumbh and Ardh Kumbh Melas for saints and devotees. However, there is nothing on record to indicate that the Respondent has been recognised as a public trust or that it possesses any trust deed, constitution, or charter evidencing such religious or charitable status.

29. The documents produced by the Petitioners clearly show that the Respondent is registered under the Societies Registration Act, 1860. Mere registration as a society does not, by itself, confer upon it the status of a charitable or religious institution; the determining factor is its dominant object and the nature of its activities. The courts below, while accepting the plea of exemption, appear to have been influenced mainly by general observations about the ashram's religious activities rather than by substantive evidence of its constitutional character or objects.

30. It is also not disputed that the issue regarding the nature of the Respondent-ashram had earlier been directly raised and adjudicated upon in Misc. Suit No. 62 of 2014 (*Abhishek Jha and another v. Shri 108 Pujoyapad Advet Panch Parmeshwar Panchayati Akhara Naya Udasin Kankhal*). In that suit, which was instituted under Section 92 of the Code of Civil Procedure, 1908, the plaintiffs themselves had alleged that the Respondent was a public religious charitable trust. The Respondent, however, filed a written statement specifically denying that character and asserted that it



was merely a society registered under the Societies Registration Act.

31. The learned District Judge, Haridwar, by judgment dated 01.12.2014, accepted that stand and held that the Respondent-ashram was not a public religious and charitable trust. That judgment has attained finality, as neither party challenged it before any superior forum.

32. In these circumstances, the finding of the courts below treating the Respondent as a charitable and religious institution cannot be sustained in law. The principle of *res judicata* is clearly attracted, as the question relating to the status of the Respondent has already been directly and substantially in issue and finally determined by a competent civil court.

33. Once such a determination has been made, it is binding between the parties, and it was not open to the courts below, in summary Small Cause Court proceedings, to reopen or contradict that finding. The courts below, however, overlooked this binding adjudication and embarked upon a fresh examination of the same question, relying primarily on conjecture and without reference to the earlier record.

34. The jurisdiction of the Judge, Small Causes Court, is limited to determining questions of tenancy, rent, and possession, and does not extend to adjudicating complex issues relating to the legal status or constitution of an institution. The nature of such proceedings is summary, and any question of ownership or institutional character, which requires detailed examination of



documents and prior adjudications, lies beyond its scope. The trial court, in entering into the question of whether the Respondent was a charitable or religious institution, travelled beyond its jurisdictional competence. The revisional court, instead of correcting this error, affirmed the findings without proper scrutiny, thereby perpetuating the illegality.

35. While exercising powers under Article 227 of the Constitution of India, this Court is mindful of its limited supervisory jurisdiction and ordinarily would not interfere with concurrent findings of fact. However, where such findings are recorded in disregard of binding precedent, without evidence, or in excess of jurisdiction, the supervisory power must be exercised to prevent manifest injustice.

36. The findings of the courts below in the present case are inconsistent with the established legal position, contrary to the record, and suffer from perversity in approach. Both the courts have misapplied Section 2(1)(bb) of the Act, have failed to consider the finality of the civil court judgment dated 01.12.2014, and have thus rendered conclusions which cannot be sustained in law.

37. Upon an overall consideration of the material on record and the reasoning assigned by the courts below, it is evident that the determination of the Respondent's status as a religious and charitable institution is legally unsound and unsupported by evidence.



38. Consequently, both the trial court and the revisional court erred in holding that the Respondent-ashram is a public religious and charitable institution entitled to exemption under Section 2(1)(bb) of the U.P. Act No. 13 of 1972. Such finding, rendered in disregard of the binding judgment of the learned District Judge, Haridwar, dated 01.12.2014, wherein the Respondent's status as a registered society stood conclusively determined, cannot be sustained in law.

39. It further appears that the courts below have travelled beyond the limited jurisdiction vested in the Judge, Small Causes Court, by entering into questions which properly fall within the domain of a civil court. The summary proceedings under the Provincial Small Cause Courts Act are not intended for adjudication of intricate questions concerning the legal character of institutions. By assuming such jurisdiction, the courts below acted in excess of their authority, resulting in grave miscarriage of justice.

40. The concurrent judgments of the trial court dated 20.12.2018 and the revisional court dated 01.09.2023, therefore, suffer from legal infirmity and cannot be sustained. They are accordingly quashed and set aside.

ORDER

Accordingly, both these writ petitions succeed and are hereby **allowed**. The impugned judgments and decrees dated 20.12.2018 passed by the learned Judge, Small Causes Court/I Additional Civil Judge (S.D.), Haridwar, in S.C.C. Suit Nos. 8 of 2015 and 20 of 2014, as well as the revisional orders dated 01.09.2023 passed by



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the II Additional District Judge, Haridwar, in S.C.C. Revision Nos. 2 of 2019 and 3 of 2019, are quashed and set aside.

The matters are remanded to the trial court for reconsideration of the suits afresh in accordance with law, after affording due opportunity to the parties to lead such evidence as they may be advised, confined strictly to the issues of tenancy and arrears of rent, without reopening the already settled question regarding the status of the Respondent-ashram. The trial court shall make every endeavour to decide the suits expeditiously, preferably within a period of six months from the date of production of a certified copy of this order.

Interim orders, if any, shall stand vacated.

No order as to costs.

Ashish Naithani, J.
13.11.2025

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