



2026:UHC:411-DB

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE MR. G. NARENDAR, C.J.
HON'BLE MR. ASHISH NAI THANI, J

Special Appeal No.21 of 2026

Smt. Panna Vinay Shah ..Appellant

Versus

M/s Kesar Sugar Works Ltd.
And others ..Respondents

Presence:-

Mr. Bhupesh Kandpal, learned counsel for the appellant.
Mr. Aditya Singh, learned counsel for the Respondents.

JUDGMENT :(per HON'BLE MR. G. NARENDAR, C.J.)

Heard Mr. Bhupesh Kandpal, learned counsel for the appellant and Mr. Aditya Singh, learned counsel for the respondents.

2. The facts as stated by the Appellant in a nutshell, are that in respect of certain lands, comprising of certain villages, some lands were alleged to have been granted to the ancestors of the appellant, and that by a fraudulent revenue entry, the name of the respondents- M/S Kesar Sugar Works Ltd. came to be entered into.

3. Per contra, it is the case of the respondents that the lands were originally granted to the factory, and that the revue authorities had wrongly recorded the name of the appellant's father, as the recorded tenure holder of the land. It is the case of the respondents-petitioners that on 25.03.1956, the revenue entries

were mutated in favour of the factory, and in fact ceiling proceedings were conducted against the factory and the excess lands were determined in the proceedings. A challenge by the mother of the appellant, claiming to be the absolute owner, came to be rejected by the Allahabad High Court and the matter was also taken to the Hon'ble Apex Court, and the mother of the appellant miserably failed; that another round of litigation was instituted by the appellant claiming that she was also one of the legal heirs of the deceased/father and on that premise, other round of litigation started; that while so, the appellant alienated several parcels of the land by way of gift deeds and sale deeds and also got instituted a suit after alienating the property seeking for declaration insofar as it involved the alienated parcels of land also; and that an order of interim injunction came to be granted in favour of the appellant by the trial Court, and thereafter the respondents preferred an appeal, as mandated under Order 43 Rule 1(r) of C.P.C.; that the said appeal came to be returned by the appellate court on the ground that it was beyond its pecuniary jurisdiction, which surprises us, as the mandate of the Court Fee and question of market valuation would not arise as the relief of interim injunction is fixed. Be it so, feeling aggrieved, the respondents-petitioners, on return of the appeal papers, are said to have approached this Court under Article 226 of the Constitution of India seeking for the following reliefs:-

“1. Issue a writ, order or direction, in the nature of certiorari quashing the impugned order dated 03.03.2023 passed by the Court of Ld. Senior Civil Judge, Rudrapur in O.S. No.49/2023 being Smt.

Panna Vinay Vs. Shri Harsh Kilachand and others, contained as Annexure 1 to the writ petition.

II. Issue a writ, order or direction, which this Hon'ble Court may deem fit and proper under the circumstances of the case."

4. Learned Single Judge of this Court was pleased to grant an interim relief staying the operation of the interim injunction; that under the cover of the order of the interim injunction dated 03.03.2023, the appellant is claimed to have dispossessed the respondent, and occupied the suit scheduled property; that thereafter the learned Single Judge granted the order of the *status quo* on 11.08.2023, and subsequently the appellant is said to have withdrawn the suit on 13.10.2023.

5. The matter was listed yesterday and the learned counsel for the respondents Mr. Aditya Singh, has vehemently questioned the maintainability of the appeal.

6. Having appreciated the facts, this Court posed a query to the learned counsel, regarding the maintainability of the writ petition itself in view of the statutory remedy of appeal available under Order 43 Rule 1 (r) of C.P.C.

7. Though several arguments were advanced on both sides, this Court keeping in view the pendency of the suits i.e. O.S. No.91 of 2023, O.S. No.92 of 2023, O.S. No.93 of 2023, O.S. No.94 of 2023, O.S. No. 95 of 2023, O.S. No. 96 of 2023, O.S. No. 97 of 2023 and O.S. No. 98 of 2023, this Court posed a query, as to

whether the parties would expect the writ court to go into the serious allegations of fraud alleged on both sides, and it was also suggested to the parties that the appropriate and competent forum would be the trial court, which is hearing the suit filed by the respondent, wherein the respondents-petitioners had challenged various conveyance deeds said to have been executed by the appellant herein. This suggestion was put forth in the backdrop of the undisputed fact that the suit by the appellant was instituted after the plaintiff, therein, had already divested herself of her alleged rights over the suit schedule properties.

8. Feeling aggrieved, the respondents/ petitioners have sought for a declaratory relief, and in that view it was suggested that the withdrawal of the suit is of no consequence, as the suit itself *prima facie* appears not to be maintainable in the light of the submissions made by the learned counsels.

9. It is fairly admitted that as on the date of the institution of the suit, the appellant, who was the plaintiff therein, had already executed the conveyance deed. In that view, it was pointed out that the suit itself was of no consequence, as even if some decree was granted, it would not have any bearing because the subject matter of the suit, i.e. the suit schedule property had been conveyed to the third parties, and who were not arrayed as parties. In fact from the facts narrated, it appears that the suit was a redundant exercise. In that view, the suggestion was made.

10. Today, the learned counsel, on instructions from Sri Anshul Mohan Garg, who is the power of attorney holder and is present before this Court, submits that the parties may be relegated to thresh out the issues in the pending suits i.e. O.S. No.91 of 2023, O.S. No.92 of 2023, O.S. No.93 of 2023, O.S. No.94 of 2023, O.S. No. 95 of 2023, O.S. No. 96 of 2023, O.S. No. 97 of 2023 and O.S. No. 98 of 2023, instituted by the respondents/ petitioners. Learned counsel for the appellant would also fairly accept the same.

11. In that view, we dispose of the appeal, with a direction to the parties to have all the issues heard and adjudicated in the pending suits. In the event, parties are required to make additional pleadings, the trial court shall permit them to bring on record all such pleadings and material in support of their respective cases.

12. Learned counsel for the respondent would submit that the interim protection be ordered by this Court directing the appellant and various purchasers, who have acquired title through the appellant, not to alter the nature of the property and not to alienate the property.

13. Learned counsel for the appellant, on instructions from Sri Nilesh Kumar Singh, who is the power of attorney holder, would submit that the appellant and one of the purchaser Sri Tushar Agarwal, would undertake not to alter the nature of the suit property, or alienate it till the disposal of the suit pending in the

file of O.C.S. No.79 of 2023, O.C.S. No.80 of 2023, O.C.S. No.81 of 2023, O.C.S. No.84 of 2023, O.C.S. No.85 of 2023, O.C.S. No.86 of 2023, O.C.S. No.87 of 2023, O.C.S. No.88 of 2023, O.C.S. No.91 of 2023, O.C.S. No.92 of 2023, O.C.S. No.93 of 2023, O.C.S. No.94 of 2023, O.C.S. No.95 of 2023, O.C.S. No.96 of 2023, O.C.S. No.97 of 2023, O.C.S. No.98 of 2023, Misc. Civil No.24 of 2023, Misc. Civil No.25 of 2023 and O.C.S. No.81 of 2024.

14. The interim protection, sought for by the respondents, appears to be equitable as a serious dispute, with regard to the title over the land, being subsisting, it would be inequitable to either to allow the parties to deal with the subject matter of the suits in a manner, which would be detrimental to the other party.

15. In that view, the appellant and all those claiming rights through her, are hereby enjoined from alienating that portions of the suit schedule property, which is a subject matter of the suits detailed above. This order of the interim protection regarding injunction shall continue till the final disposal of the suit by the learned trial court.

16. In view of the fact that issues are common, i.e. right claimed by the plaintiff and the defence to be set up by the defendants, through the appellant, the Trial Court may consider clubbing of suits, if such an Application is made by the plaintiff.

17. The appeal is disposed of. In light of the order passed in the appeal, the writ petition also do not survive for consideration .

18. The appeal stands ordered accordingly.

G. NARENDAR, C.J.

ASHI SH NAI THANI , J.

Dt:09th January, 2026
Arti/Nitesh