



2026:UHC:4659-DB

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI MANOJ KUMAR GUPTA
AND

HON'BLE SRI JUSTICE SUBHASH UPADHYAY

10th June, 2026

WRIT PETITION (PIL) NO. 19 OF 2018

Mahesh Chandra Agarwal Petitioner

Versus

State of Uttarakhand and others. ...Respondents

Counsel for the petitioner : Sri Bhuwan Bhatt, learned counsel.

Counsel for the respondents : Sri Amarendra Pratap Singh, learned
Additional Advocate General with Mr.
M.S. Bisht, learned Brief Holder for
the State of Uttarakhand.
Sri R. Dobhal, learned Senior Counsel
assisted by Sri Rajesh Pandey,
learned counsel for respondent Nos. 5
to 8.

JUDGMENT : (PER: SRI MANOJ KUMAR GUPTA, C.J.)

1. The present writ petition has been filed ostensibly in public interest challenging the order dated 19.09.2017, whereby the representation, filed by the petitioner, who was an Advocate by profession, has been rejected by respondent No. 2. By the said representation, the petitioner had opposed consideration of the applications filed by the private respondents for grant of free-hold rights in their favour in respect of a building existing over a Nazool land popularly known as '*Sitapur House*'.

2. The case of the petitioner was that the original lease, which was in favour of Lala Badri Prasad Gupta, had expired on 30.06.2016. On 27.08.2016, the Nagar Palika Parishad passed a resolution for acquisition and use of the said property for public purposes with a provision for the existing tenants to continue. Respondent No. 2 also passed an order on 03.08.2016 directing



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Sub Divisional Magistrate to take possession of the property with specific finding that conditions of the lease deed had been violated.

3. A detailed project report was also submitted by respondent No. 3 to the Sub-Divisional Magistrate with regard to the manner, in which the said property would be used. His further case was that the possession of the property was taken on 31.08.2016 and, thereafter, the property was also sealed. Later, an order came to be passed on 02.09.2016 by which respondent No. 2 modified his earlier order. The said order was subjected to challenge by the petitioner in WPPIL No. 127 of 2016. A Co-ordinate Bench, by order dated 19.10.2016, allowed the writ petition and remitted the matter back to the District Magistrate for passing a fresh order after providing opportunity of hearing to the complainant as well as other affected parties. It is in compliance of the said order that the District Magistrate has now passed the impugned order, whereby the representation of the petitioner has been rejected and it has been observed that the persons in possession would be free to move applications for free-hold and in the event, any such application is filed, the same would be considered as per Nazool Policy and the directions given by the Courts in relation to the said Policy.

4. Respondent Nos. 5 to 8 are stated to have filed applications for grant of free-hold rights in respect of the portion in their possession as tenants.

5. The Executive Officer, Nagar Palika Parishad Bhowali has submitted a report on their applications to SDM, Nainital on



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05.05.2022 stating that under the Nazool Free-Hold Policy, there is a specific provision for grant of free-hold rights in favour of rent-control tenants and, consequently, the applications filed by them can be considered as per the provisions of the extant Government Order.

6. By our previous order dated 13.05.2026, we directed the second respondent to file his affidavit and clarify whether any application for grant of free-hold rights is pending. In compliance of the said order, an affidavit has been filed by Tehsildar, Tehsil-Nainital, District Nainital on behalf of respondent No. 2 and wherein, it is stated in Paragraph-6 that on 11.12.2021, a new Nazool Policy was issued for a period of one year and that the duration of the said policy has not been extended any further. It is also stated that by G.O. issued on 16.04.2025, free-hold process has been kept in abeyance and consequently, the applications filed for grant of free-hold rights have not been considered so far.

7. The PIL petitioner has already died.

8. It is evident from the stand taken by the State Government that at present, the State is not considering the applications for grant of free-hold rights in view of the Government Order dated 16.04.2025.

9. In such view of the matter, we are of the opinion that no purpose would be served in keeping the present petition pending. In case, the Free-Hold Policy is revived, the second respondent shall have to consider the applications in accordance with the



policy and in which event, any person, having any objection, shall also have the right to file objection.

10. Accordingly, the proceedings of the present PIL are closed subject to the observations made above.

11. Pending application, if any, also stands disposed of accordingly.

MANOJ KUMAR GUPTA, C.J.

SUBHASH UPADHYAY, J.

Dt: 10th June, 2026
Rathour

PRAVINDRA
SINGH RATHOUR