

**HIGH COURT OF UTTARAKHAND AT NAINITAL****HON'BLE SRI JUSTICE MANOJ KUMAR TIWARI****Writ Petition Misc. Single No. 767 of 2026****04 August, 2026**

Atul Gupta & another

--Petitioners

Versus

State of Uttarakhand & others

--Respondents

Presence:-

Mr. Ajay Joshi and Mr. Hemant Singh Mahra, Advocates for the petitioners.

Mr. Ghanshyam Joshi, Additional Chief Standing Counsel for the State of Uttarakhand/respondent nos. 1 & 2.

Mr. Siddhartha Singh and Mr. Sagar Kothari, Advocate for respondent no. 3.

1. Petitioners have challenged judgment and order dated 13.08.2024, passed by Assistant Collector, First Class, Dehradun in a partition suit, filed under Section 176 of Zamindari Abolition and Land Reforms Act (hereinafter referred to as the 'ZA&LR Act'). They have also challenged the order passed by Assistant Collector on 02.05.2025 in that partition suit and also the judgment and order dated 02.12.2025 passed by Board of Revenue, Uttarakhand, Dehradun, in Revision No. 24/2024-25.

2. Learned counsel for petitioners submits that against the order passed by learned Assistant Collector on 02.05.2025, petitioners filed revision under Section 333 of ZA&LR Act, which was dismissed on the ground



that First Appeal alone was maintainable.

3. Attention of this Court was drawn to provision contained in Section 333 of ZA&LR Act for contending that the revision filed by petitioners was maintainable, as petitioners had not availed the remedy of Appeal, though it was available to them. Section 333 of ZA&LR Act is extracted below for ready reference:-

“333. Power to call for cases.”-(1) The Board or the Commissioner or the Additional Commissioner may call for the record of any suit or proceeding [other than proceeding under sub-section (4-A) of Section 198] decided by any court subordinate to him in which appeal lies or where an appeal lies but has not been preferred, for the purpose of satisfying himself as to the legality or propriety of any order passed in such suit or proceeding and if such subordinate court appears to have-

(a) exercised a jurisdiction not vested in it by law; or

(b) failed to exercise a jurisdiction so vested; or

(c) acted in the exercise of jurisdiction illegally or with material irregularity,

the Board or the Commissioner or the Additional Commissioner, as the case may be, may pass such order in the cases as he thinks fit.

(2) if an application under this section has been moved by any person either to the Board or to the Commissioner or to the Additional Commissioner, no further application by the same person shall be entertained by any other of them.”

4. Section 333 of ZA&LR Act recognizes right of a party to file revision petition before the Board of Revenue; Commissioner or Additional Commissioner against an order passed by any Court subordinate to them, however, this right would not be available to a party, which has availed the remedy of Appeal against that order, then the same party cannot file revision



petition under Section 333 of the Act.

5. Admittedly, petitioners did not file Appeal against the order passed by Assistant Collector on 02.05.2025, thus, the revision filed by them could not have been dismissed only on the ground that Appeal should have been filed. Thus, learned Board of Revenue erred in dismissing the revision filed by petitioners. Perusal of the impugned judgment dated 02.12.2025 reveals that learned Board of Revenue entered into merits of the case and also affirmed the order passed by learned Assistant Collector, which was impugned by the revisionists.

6. Learned counsel for petitioners submits that approach adopted by learned Board of Revenue was improper, as if it was of the opinion that revision is not maintainable, then it was not open to Revisional Court to affirm the order passed by Assistant Collector on 02.05.2025.

7. This Court finds substance in the contention raised by learned counsel for petitioners. Since revision filed by petitioners was dismissed only on the ground that remedy of Appeal was available to them; while, as per Section 333 (1) of ZA&LR Act, revision can be filed by a party to whom remedy of appeal is available, but he chooses not to avail that remedy. Thus, the order passed by learned Board of Revenue is interferable.

8. The writ petition is, accordingly, allowed. The impugned judgment and order dated 02.12.2025 is set-aside. Revision No. 24/2024-25 shall stand restored to



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the file of Board of Revenue and be decided on merits, uninfluenced by any observation made in this order. This Court hopes and expects that Board of Revenue shall decide the revision, within six months from date of presentation of certified copy of this order.

(Manoj Kumar Tiwari, J.)

04 August, 2026

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CHANDRA

