



IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL
HON'BLE THE CHIEF JUSTICE SRI MANOJ KUMAR GUPTA
AND
HON'BLE SRI JUSTICE SUBHASH UPADHYAY
18th August, 2026
SPECIAL APPEAL NO. 138 OF 2024

Dujjan --Appellant
Versus
 State of Uttarakhand and others. ---Respondents

Counsel for the appellant : Sri Ketan Joshi and Sri Hemant Singh
 Mahra, learned counsel.
 Counsel for the respondents : Sri B.S. Parihar, learned Additional
 Chief Standing Counsel with Sri M.S.
 Bisht, learned Brief Holder for the
 State of Uttarakhand.

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

1. The present intra-Court appeal is directed against the order of the learned Single Judge dated 23.04.2024 passed in WPMS No. 1029 of 2024, wherein the appellant-writ petitioner had sought the following reliefs:-

“(i) To issue a writ, order or direction in the nature of certiorari quashing the order dated 05.12.2023 passed by respondent no. 2 in Case No. 564 of 2022-23, Ashok Kumar Vs. Sub Divisional Magistrate Vikas Nagar and another.

(ii) To issue a writ, order or direction in the nature of Mandamus and direct the Respondent No. 2 to decide the complaint dated 20.03.2023 and reply dated 04.09.2023 of the Petitioner afresh giving a conclusive and speaking finding, expeditiously, and in a time-bound manner.

(iii) To issue a writ, order or direction in the nature of Mandamus direct the respondent no. 2 to give a finding/direction just and proper, as required to protect and safeguard the interests and rights of the petitioner.”

2. It appears that the appellant made a complaint to the Uttarakhand Commission for Scheduled Castes that his land was illegally encroached by the Education Department by constructing a



school. The prayer made in the application was that the Education Department be dispossessed and the possession of his land be restored to him, and thereby prevent atrocity upon the petitioner.

3. It seems that on the aforesaid complaint of the appellant-writ petitioner, the Chairman of the Commission, by the impugned order dated 05.12.2023, recommended to the Education Department to examine whether he had executed any gift-deed in respect of his land or not and, if not, to ensure that some alternative land is given to the writ petitioner.

4. The learned Single Judge has observed that the dispute relating to rights in immovable property cannot be adjudicated in summary proceedings by Uttarakhand Commission for Scheduled Castes. The learned Single Judge has also taken note of the fact that despite the said limitation, the Chairman of the Commission has already issued direction to the Education Department to examine whether any gift deed has been executed or not and to provide land to the petitioner in lieu of his land in case no gift deed had been executed. Accordingly, the writ Court has declined to interfere in the matter, but has granted liberty to the appellant-writ petitioner to approach the competent Court of law for adjudication of his rights, in case he still feels aggrieved.

5. Learned counsel for the appellant-writ petitioner submits that the action of the Education Department in constructing school over his land amounts to atrocity on member of scheduled caste, which under the Act, is an offence and, therefore, the Commission had the power to examine the said issue.



6. Indisputably, the School is in existence since a long time. The appellant-writ petitioner has prayed for dispossession of the Education Department and for restoring the possession of the land in his favour. Thus, he was claiming possession of immovable property. The Commission, in such circumstances, has rightly refrained from examining the dispute and in referring the matter to the Education Department for appropriate action. Learned Single Judge is perfectly right in observing that the rights in immovable property cannot be examined by the Commission. In case, the appellant-writ petitioner is not satisfied with the direction issued by the Commission to the Education Department, the learned Single Judge has rightly left it open to the appellant-writ petitioner to avail civil remedies.

7. The special appeal is, therefore, devoid of merit and is, accordingly, dismissed.

8. All pending applications stand dismissed accordingly.

MANOJ KUMAR GUPTA, C.J.

SUBHASH UPADHYAY, J.

Dt: 18th August, 2026
Rathour

PRAVINDRA
SINGH
RATHOUR

Digitally signed by PRAVINDRA SINGH RATHOUR
DN: cn=PRAVINDRA SINGH RATHOUR, o=UKHC, ou=UKHC, email=pravin@ukhc.gov.in, c=IN
Date: 2026.08.18 11:10:17 +05'30'