



2026:UHC:3702-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL
HON'BLE THE CHIEF JUSTICE MR. MANOJ KUMAR GUPTA
AND
HON'BLE SRI JUSTICE SUBHASH UPADHYAY
14TH MAY, 2026
WRIT PETITION (M/ B) NO. 322 OF 2026

Suman & others Petitioners.

Versus

State of Uttarakhand & others Respondents.

Counsel for the Petitioners	:	Mr. Anil Kumar Joshi, learned counsel.
Counsel for the Respondents	:	Mr. Yogesh Chandra Tiwari and Mr. S.M.S. Mehta, learned Standing Counsel.

JUDGMENT :(per Mr. Manoj Kumar Gupta, C.J.)

1. Heard learned counsel for the parties.
2. The petitioners have prayed for issuance of writ of mandamus commanding the respondents to permit the petitioners to grow fodder crops for their cattle as they were being permitted in the past in Jurka Area, Tarai Western Forest Division, District Udham Singh Nagar, and not to disturb the dwelling of the petitioners in the periphery of Jurka, Tarai Western Forest Division, Udham Singh Nagar till the claims of the petitioners under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (*for short hereinafter referred to as "the Act"*) are decided and to comply with Section 4(5) of the Act, and thereby permit the petitioners to continue dwelling in the area and cultivating



the land for growing fodder.

3. The case of the petitioners is that they belong to Jatav Community, a Scheduled Caste, and are residing since more than three generations in Jurka No.2, Post Kundeshwari, Kashipur, District Udham Singh Nagar. They are engaged in animal husbandry for their livelihood as a conventional profession. The land, in question falls under category 14(3) Kha. In Khatauni of 1406 *fasli*, despite the area being forest area, human settlement is recorded over it as *Jot Abadi*. The petitioners claim that they have been issued Voter ID Cards, Ration Cards and Aadhaar Cards showing them to be residents of the same forest and adjoining area. The petitioners like *Van Gujjars*, are also traditional dwellers of the forest. They assert that the land, afore-said, has vested in them under the provisions of the Act. It is also their contention that under the provisions of the Act, the rights in land have not been created for the first time, but are vested rights which are only to be recognized after holding the inquiry as per the provisions of the Act and Rules. It is the duty of the State to carry out the said exercise, however, without undertaking the said exercise, the State and its functionaries, in an arbitrary manner, are restraining the petitioners from cultivating the land where the petitioners grow their fodder crops thereby



seriously impacting their only source of livelihood.

4. Learned counsel for the petitioners places reliance on a judgment of this Court, dated 16.06.2025, in Writ Petition (M/B) No.350 of 2025, "*Mohammad Baseer vs. State of Uttarakhand & others*", and other connected writ petitions, where in similar facts and circumstances, a Co-ordinate Bench had issued the following directions:-

"7. In that view of the matter, we are of the considered opinion that the instant writ petitions can be disposed of by restraining the respondents from attempting to evict the petitioner till consideration and disposal of his application, as mandated under the Act. It is made clear that the restraining the respondents not to evict the petitioner from the land in question, will not enable the Petitioner to carry out any commercial activities, except self cultivation of the lands in question.

8. Writ petitions stand ordered accordingly. There shall be no order as to costs."

5. Learned counsel for the petitioners submits that the petitioners have already submitted their claims for recognition of their rights under the Act, but without deciding their applications, the respondents are threatening to dispossess them.

6. On 30.04.2026, the following order was passed:-

"1. Mr. Anil Kumar Joshi, learned counsel for the petitioner.

2. Mr. J.N.Pande, learned Standing Counsel for the



State.

3. *Learned Standing Counsel seeks time to ascertain whether any exercise for identification and vesting of rights of the petitioners and others forest dwellers has been conducted by the authorities in the area as mandated under the provisions of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition and Forest rights Act, 2006).*

4. *List on 14.05.2026."*

7. Learned State Counsel has placed on record the instructions received from the Divisional Forest Officer, dated 13.05.2026.

8. We have gone through the written instructions and we find that therein the specific query made by the Court as to whether the exercise for identification and vesting the rights has been conducted by the authorities, has not been answered. The only stand taken therein is that the claims of the petitioners have been forwarded to the Sub-Divisional Level Committee for decision and assurance has been given that the claim(s) would be decided expeditiously.

9. In *Mohammad Baseer* (supra), the scheme of the Act has been duly considered and, thereafter, the directions, as extracted above, were issued.

10. As the claims of the petitioners are yet to be considered and decide, therefore, we are of the opinion that



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in the meantime, the respondents should not evict the petitioner, nor create any impediment in their cultivating the land.

11. Accordingly, we dispose of the instant writ petition in terms of the directions issued in *Mohammad Baseer* (supra).

12. Pending application, if any, also stands disposed of.

MANOJ KUMAR GUPTA, C.J.

SUBHASH UPADHYAY, J.

Dated: 14th May, 2026

NISHANT

NISHANT
KUMAR