

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>UKHC010219592003</u> <u>WPMS/808/2002</u> State --Petitioner Versus Ravi Kumar. --Respondent <u>Hon'ble Rakesh Thapliyal, J.</u> 1. Mr. Sunil Khera, learned Addl. Advocate General for the State. 2. Mr. D.S. Patni, learned Sr. Advocate assisted by Mr. Piyush Garg and Mr. Karmanay Pandey, learned counsel for the respondents. 3. The instant petition is preferred by the State under Article 227 of the Constitution of India challenging the order passed by Addl. Chief Revenue Commissioner, Nainital in Revision No. 42 of 2002 (Ravi Kumar Vs. State of Uttaranchal and others) dated 22.07.2002 on the ground that revision preferred before the Addl. Chief Revenue Commissioner, Nainital against the two office letters dated 02.05.2001 issued by District Magistrate, Nainital and consequential letter dated 21.05.2001 is not maintainable. 4. Mr. Khera submits that in fact the land, which is falling in Khasra No. 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 measuring 180 Bighas and 12 Biswas of Village – Haripur, Colonel Ward, Tehsil – Haldwani was under land acquisition proceeding, consequently, the District Magistrate issued instructions to SLAO, Sub Divisional Magistrate, Tehsildar - Haldwani and Sub Registrar - Haldwani to take appropriate steps pursuant to the letter of U.P. Avas Vikas Parishad dated 27.04.2001 and pursuant to this letter of District Magistrate, the SLAO, Nainital issued another letter dated 21.05.2001 addressed to Sub Divisional Magistrate, copy of which was sent to Tehsildar, Haldwani and Sub Registrar, Haldwani as well as to Assistant Engineer, U.P. Avas and Vikas Parishad, in reference to the land which was under proposed acquisition whereby directions have been issued that the Authorities may ensure to get NOC from the Department concerned before sale and purchase of the land. 5. Against these office letters issued by District Magistrate and SLAO, Revision No. 42 of 2002 was preferred by the respondents Ravi Kumar and Virendra Kumar before the Board of Revenue, which was allowed

			and both the letters dated 02.05.2001 and 21.05.2001 were set aside. 6. Mr. Khera submits that the revision against the two administrative letter issued by the District Magistrate and SLAO preferred by the respondents is not legally maintainable in view of Section 333 of the U.P.Z.A. & L.R. Act. 7. To examine this aspect Section 333 of the U.P.Z.A. & L.R. Act is being reproduced herein under: <i>“333. Power to call for cases.</i> <i>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;</i> <i>a. exercised a jurisdiction not vested in it by law; or</i> <i>b. failed to exercise a jurisdiction so vested, or</i> <i>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 case as he thinks fit.</i> <i>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.”</i> 8. On perusal of the aforesaid provision, it is very clear that revision will lie only in reference to any order passed in suit or proceeding. By referring this provision, Mr. Khera, submits that the administrative orders passed by the District Magistrate and SLAO were not arising out of any proceeding or suit rather, it is an administrative order, therefore, revision is not maintainable and the Board of Revenue committed manifest illegality while entertaining the revision. 9. On the other side, Mr. D.S. Patni, learned Sr. Advocate and Mr. Piyush Garg, learned counsel for the respondents submits that in fact, land acquisition proceeding was withdrawn by the U.P. Avas and Vikas Parishad, later on, therefore, subject matter of both the letters is no more in existence, therefore, order passed by
--	--	--	--

			the Board of Revenue no more survives, which is evident from the order of Board of Revenue itself, which is impugned in the instant petition. They submits that the Board of Revenue take note of the Government Order dated 16.05.2002 whereby entire proceedings of acquisition in reference to the land regarding which District Magistrate and SLAO passed the administrative order is now closed. In this regard, learned counsel for the respondents has placed before this Court copy of the letter dated 16.05.2002, which is taken on record. 10. On this, Mr. Khera submits that the writ petition is confined only to the impugned order on the ground that revision is not maintainable. So far as dropping of acquisition proceedings are concerned, he has no instructions on that. 11. Admittedly, in terms of Section 333 of the U.P.Z.A. & L.R. Act, revision was not maintainable. 12. In such view of the matter, the writ petition is allowed. Impugned order dated 22.07.2002 passed by the Board of Revenue is hereby quashed. However, it is made clear that outcome of this writ petition will not prejudice the rights of the respondents in other pending matters. 13. The record of this petition be remain tagged with the other pending matters. (Rakesh Thapliyal, J.) 17.08.2026 SKS
--	--	--	--

--	--	--	--