



HIGH COURT OF UTTARAKHAND AT NAINITAL
HON'BLE SRI JUSTICE MANOJ KUMAR TIWARI
Writ Petition No. 1842 of 2026 (MS)

Smt. Meenu Sardana .. --Petitioner

Versus

State of Uttarakhand through its Collector,
 District Pauri Garhwal -Respondents

 Advocates: Mr. D.C.S. Rawat, Advocate for the petitioner
 Mr. S.K. Nainwal, Standing Counsel for the State

JUDGMENT

1. Petitioner has challenged eviction order passed by Prescribed Authority under U.P. Public Premises (Eviction of Unauthorized Occupants) Act, 1972. She has also challenged the judgment rendered by learned Additional District Judge in appeal.

2. Proceedings were initiated against the petitioner by issuing notice under Section 4(1) of the aforesaid Act with the allegation that petitioner has encroached upon Government land to the extent of 0.047 hectare by constructing a road. Particulars of the land alleged to be encroached, including khata khatoni number and khasra nos. were also given in the notice.

3. Petitioner submitted reply to the notice stating that she has not encroached upon government land and khasra nos. on which encroachment is allegedly made, was purchased by her from Rajendra Singh and his brothers by a registered sale deed and there is a public path in existence, which is used by residents of the village since long and after purchasing the land, petitioner also acquired easement right of using that passage.

4. Learned Prescribed Authority disbelieved the stand



taken by petitioner based on deposition made by Smt. Saroj Devi, Gram Pradhan that no resolution was passed by Gram Sabha for construction of road and inferred that road was constructed by petitioner over government land without permission from the competent authority. Learned Prescribed Authority also returned a finding that road was not constructed on the land purchased by petitioner but adjoining land.

5. During cross-examination, petitioner admitted that she had not purchased the land comprised in khasra Nos. 49 and 32 and further that khasra Nos. 32 and 49 are abutting the land purchased by her.

6. Since the allegation in the notice issued under Section 4(1) of the Act was that the road was constructed over khasra Nos. 49 and khasra No. 32, which is a government land, therefore learned Prescribed Authority passed eviction order against the petitioner.

7. Petitioner filed appeal against the order passed by Prescribed Authority under Section 9 of the aforesaid Act, which was dismissed by learned Additional District Judge, Kotdwar, Pauri Garhwal vide judgment dated 23.03.2026 by holding that appellant admitted use of government land as passage for ingress and egress to her property and there is no evidence that road in question was constructed by the villagers.

8. Scope of powers available to this Court under Article 227 is limited as held by Hon'ble Supreme Court in the case of **Garment Craft Vs. Prakash Chand Goel**, reported as **(2022) 4 SCC 181**. Para 15 and 16 of the said judgment are extracted below:



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15. Having heard the counsel for the parties, we are clearly of the view that the impugned order [*Prakash Chand Goel v. Garment Craft*, 2019 SCC OnLine Del 11943] is contrary to law and cannot be sustained for several reasons, but primarily for deviation from the limited jurisdiction exercised by the High Court under Article 227 of the Constitution of India. The High Court exercising supervisory jurisdiction does not act as a court of first appeal to reappreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal. [*Celina Coelho Pereira v. Ulhas Mahabaleshwar Kholkar*, (2010) 1 SCC 217 : (2010) 1 SCC (Civ) 69] The jurisdiction exercised is in the nature of correctional jurisdiction to set right grave dereliction of duty or flagrant abuse, violation of fundamental principles of law or justice. The power under Article 227 is exercised sparingly in appropriate cases, like when there is no evidence at all to justify, or the finding is so perverse that no reasonable person can possibly come to such a conclusion that the court or tribunal has come to. It is axiomatic that such discretionary relief must be exercised to ensure there is no miscarriage of justice.

16. Explaining the scope of jurisdiction under Article 227, this Court in *Estralla Rubber v. Dass Estate (P) Ltd.* [*Estralla Rubber v. Dass Estate (P) Ltd.*, (2001) 8 SCC 97] has observed : (SCC pp. 101-102, para 6)

“6. The scope and ambit of exercise of power and jurisdiction by a High Court under Article 227 of the Constitution of India is examined and explained in a number of decisions of this Court. The exercise of power under this article involves a duty on the High Court to keep inferior courts and tribunals within the bounds of their authority and to see that they do the duty expected or required of them in a legal manner. The High Court is not vested with any unlimited prerogative to correct all kinds of hardship or wrong decisions made within the limits of the jurisdiction of the subordinate courts or tribunals. Exercise of this power and interfering with the orders of the courts or tribunals is restricted to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice, where if the High Court does not interfere, a grave injustice remains uncorrected. It is also well settled that the High Court while acting under this Article cannot exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error, which is not apparent on the face of the record. The High Court can set aside or ignore the findings of facts of



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an inferior court or tribunal, if there is no evidence at all to justify or the finding is so perverse, that no reasonable person can possibly come to such a conclusion, which the court or tribunal has come to.”

9. Petitioner has challenged the findings returned by Prescribed Authority, as affirmed by Appellate Authority.

10. This Court, while exercising supervisory jurisdiction cannot reassess the evidence. Findings of fact returned by Prescribed Authority cannot be disturbed under supervisory jurisdiction. Even otherwise also, there is no jurisdictional error, which may justify invocation of supervisory jurisdiction for disturbing the impugned judgments and orders.

11. Thus, there is no scope for interference with the eviction order passed by Prescribed Authority. Writ petition fails and is dismissed.

MANOJ KUMAR TIWARI, J.

Dt: 21.07.2026
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