



IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (M/S) No. 1902 of 2026

Mr. Ramesh Sharma

... Petitioner

Versus

State of Uttarakhand & Another

... Respondents

Ms. Adya Mishra, Advocate, i/b Mr. Gaurav Kandpal, Advocate for the petitioner.

Mr. Yogesh Pandey, Deputy AG, for the State.

J U D G M E N T

Hon'ble Manoj Kumar Tiwari, J.

According to petitioner, he purchased a cottage numbered as C-2 in a complex known as Kailash Vihar, Handi Bandi, Nainital by registered sale deed dated 4.5.2005 from M/s Regency Industries Ltd. It is contended that even though the sale deed was executed in favour of petitioner in 2005, however, agreement to sell was executed qua the said property on 30.9.1996 and he is continuing in possession ever since then. The land over which cottage is standing is nazul land belonging to the State, which reportedly was leased out originally to one Mr. James Corbet and the lease was renewed in 1939 and 1969 and according to the respondents, term of the lease expired in 1999.

2. Learned State Counsel points out that in the year 1969, second renewal of the lease was made in favour of one Sri Rajeev Dave S/o late Sri Ram Krishna Dave and Sri Rajeev Dave transferred the



leased land in favour of M/s Regency Industries Ltd. by a registered sale deed in the year 1991.

3. Petitioner is aggrieved by rejection of his application for conversion of leasehold right to freehold, by the District Magistrate, vide order dated 13.11.2025. Learned Counsel for the petitioner contends that petitioner meets all conditions of eligibility, as per freehold policy of the State, and he made application with requisite fee well within time, and his application has been rejected on untenable grounds.

4. Impugned order passed by District Magistrate is on record as Annexure-1 to the writ petition. Petitioner's request for grant of freehold right has been turned down on the following grounds:

(i) the land belonging to M/s Regency Industries Ltd., situate at Kailash Vihar, Handi Bandi is subject to liquidation proceedings before Hon'ble Delhi High Court, and petitioner did not produce 'No Objection Certificate' from Deputy Official Liquidator, High Court of Delhi for grant of freehold right in his favour;

(ii) District Government Counsel (Civil) has opined that freehold right shall be given to allottees of flats constructed by M/s Regency Industries Ltd. only when they meet the eligibility conditions and complete all necessary formalities, as per Nazul Policy;

(iii) the application earlier made by petitioner for freehold right on 27.2.1999 was rejected, as petitioner was not eligible in terms of



para 7 of Government Order dated 1.12.1998, which provides that only such persons would be eligible, who were in actual physical possession over nazul land before 01.01.1992, while petitioner could not prove his possession by documentary evidence and his claim is based on agreement to sell dated 30.9.1996;

(iv) in Writ Petition No. 159 (PIL) of 2020, this Court passed an interim order on 21.2.2024, restraining the State Authorities from granting bhumidhari right to encroachers in respect of nazul land of the State;

(v) vide Government Order dated 16.4.2025, process of conversion of leasehold right to freehold has been stayed pursuant to an order passed by this Court.

5. Learned Counsel for the petitioner has drawn attention of this Court to Annexure-11 to the writ petition, which is an order dated 21.11.2012, passed by Hon'ble High Court of Delhi in Company Petition No. 281 of 1996. By said order, applications made by certain persons seeking permission of the Court to get leasehold rights in respect of Nazul land converted to freehold, without intervention of the Official Liquidator, were allowed. In opening paragraph of that order, there is reference to property bearing no. C-2, situate at Kailash Vihar, Handi Bandi, Nainital. In para 16 of the writ petition, it is stated that petitioner approached Hon'ble Delhi High Court and vide order dated 21.11.2012, permission was granted to him to directly approach the concerned authorities for conversion of leasehold



right to freehold. Thus the first ground taken by the District Magistrate that NOC was not submitted, is unsustainable.

6. This Court finds substance in the contention raised on behalf of petitioner that rejection of petitioner's application by District Magistrate, vide order dated 24.8.2004, was set aside by Commissioner, Kumaon on petitioner's appeal and matter was remanded back to District Magistrate to reconsider the application afresh. The order passed by Commissioner is on record as Annexure-5 to the writ petition. Since the Commissioner directed the District Magistrate to decide the application afresh on merits, therefore, the opinion given by District Government Counsel (Civil) cannot be a ground for rejection of petitioner's application. The District Magistrate was required to examine the matter in the light of relevant Government Orders himself and he cannot abdicate his discretion. Moreover, District Magistrate overlooked the order passed by Commissioner on petitioner's appeal, on 21.7.2006, whereby petitioner's application was remitted back for reconsideration, therefore reliance on the earlier rejection order in ground no. (iii) is erroneous.

7. Ground no. (iv) and (v) taken for rejection of petitioner's application are based on the restraint imposed against conversion of leasehold right to freehold, by judicial orders and Government Order, issued pursuant to such judicial orders. Since the restraint imposed by judicial orders is not lifted and State Government has been asked not to grant



freehold right over nazul land in favour of any person, therefore, while holding that other grounds taken for rejecting petitioner's application are unsustainable writ petition is disposed of with the direction that petitioner's application for conversion of leasehold to freehold right shall be considered strictly as per policy, as and when the ban imposed by judicial orders is lifted. It is made clear that District Magistrate shall consider the application uninfluenced by any observation made in this order.

(Manoj Kumar Tiwari, J.)
14.7.2026

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