



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>WPMS/1943/2026</u> Julfkar and others --Petitioner Versus State of Uttarakhand and others --Respondent With <u>WPMS/1944/2026</u> <u>Hon'ble Manoj Kumar Tiwari, J.</u> Mr. Neeraj Garg, Advocate for the petitioners. Mr. S.K. Nailwal, Standing Counsel for the State. 1. Since common questions of facts and law are involved in these petitions, therefore, these are being heard and decided together. However, for the sake of brevity and convenience, facts of Writ Petition (MS) No. 1943 of 2026, alone are being considered and discussed. 2. Petitioners filed a declaratory suit under Section 229-B of Zamindari Abolition and Land Reforms Act, claiming adverse possession, which was decreed. 3. Two appeals were filed against judgment and decree passed by learned Assistant Collector before First Appellate Court. 4. Both the appeals were allowed by learned Commissioner, Garhwal Division vide judgment dated 19.01.2024. Petitioners challenged the judgment rendered by First Appellate Court by filing two Second Appeals. Board of Revenue dismissed both the appeals vide judgment dated 11.06.2026. Feeling aggrieved by judgment passed by First Appellate Court as affirmed by



		Second Appellate Court, petitioners have approached this Court. 5. It is contended that First Appellate Court finally decided the appeal on a date fixed for consideration of delay condonation application. 6. Learned State Counsel, per contra, submits that declaratory suit filed by petitioners was decreed even though notice was not served upon the Nagar Panchayat. He points out that the suit was filed by claiming adverse possession on a State land, which is being managed by Nagar Panchayat, Landhora. 7. Learned State Counsel points out that the counsel appearing for the petitioner had given consent for hearing of the first appeal on merits and further that the First Appellate Court merely remanded the case back to the trial Court to decide the matter afresh after hearing all the parties. Thus he contends that lis is yet to be decided, therefore writ petition would not be maintainable. 8. Learned State Counsel relies upon judgment rendered by Hon'ble Supreme Court in the case of Satyadhyan Ghosal and others Vs. Deorajin Debi (Smt) and Another, reported as (1960) SCC OnLine SC 15. Para 22 of the said judgment is extracted below: “22. In our opinion the order of remand was an interlocutory judgment which did not terminate the proceedings and so the correctness thereof can be challenged in an appeal from the final order. We hold therefore that the appellant is not precluded from raising before us the question that Section 28 of the original Thika Tenancy Act was not available to the tenants after the Thika Tenancy Amendment Act came into force. On
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		this question we have already decided, as already indicated above, in Mahadeolal Kanodia case that Section 28 after its omission by the amending Act is not available in respect of proceedings pending on the date of the commencement of the Thika Tenancy Ordinance of 1952.” 9. Since by the impugned judgment, the matter has been relegated back for re-hearing to the Trial Court and the lis is yet to be decided, therefore this Court do not find any scope for interference in the matter while exercising power under Article 227 of the Constitution. 10. The writ petitions, accordingly, fail and are dismissed. 11. It goes without saying that trial Court will decide the suit independently untrammelled by any observation made by the appellate Court. (Manoj Kumar Tiwari, J.) 06.07.2026 Mahinder/
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