



2026:UHC:747-DB

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL
THE HON'BLE CHIEF JUSTICE MR. MANOJ KUMAR GUPTA
AND
THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY
Special Appeal No.353 of 2025
February 10, 2026

Champa Devi ---Appellant

Versus

State of Uttarakhand & Others ---Respondents

Presence:-

Mr. T.A. Khan, learned Senior Counsel assisted by Mr. Mohd. Shafy, learned counsel for the appellant

Mr. Yogesh Tiwari, learned Standing Counsel and Ms. Rajni Supyal Latwal, learned Brief Holder for the State/respondent nos.1 to 4

Ms. Anjali Bhargava, learned counsel for respondent no.5

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

1. Present intra-court appeal is directed against an order dated 12.09.2025 passed by learned Single Judge Bench in WPMS No.2668 of 2025.

2. By means of the said writ petition, the petitioner/appellant had prayed for a writ of mandamus directing the respondents to unlock the rooms of the petitioner allegedly situated over khasra no.12508 khata no.00040, Village Balna, Patwari Area Pant Kotuli, Patti Walna, Athagulli, Tehsil Ranikhet, District Almora and also



to restore the household goods taken in possession by the respondents and also restrain the respondents from creating any third party interest over the property in question.

3. Learned Single Judge has observed that in the representation filed by the petitioner/appellant she had admitted that she was in occupation of Panchayat Ghar and from which possession has been taken from her. Learned Single Judge has also noted the contention of the learned counsel appearing for the petitioner/appellant that certain revenue records filed along with the writ petition in support of the claim of the petitioner/appellant that she is tenure holder of the land, does not indicate that the property from which she was dispossessed was standing over the same land. Learned Single Judge has observed that the writ petition involves disputed questions of title, which cannot be adjudicated in writ jurisdiction and has consequently disposed of the writ petition with liberty to the petitioner/appellant to approach the competent court of law.

4. Learned counsel for the petitioner/appellant submits that the petitioner/appellant having been dispossessed from the property by the State/respondents, the writ petition should have been entertained. However, he



is not in a position to convince us as to how on basis of the revenue records filed along with the writ petition, without any further inquiry, it can be held that the property belonged to the petitioner/appellant.

5. The case of the State/respondents is that Panchayat Ghar exists over part of khasra no.89 which was donated by Bishan Dutt S/o Durga Dutt and his name is also duly recorded in the revenue records. The Panchayat Ghar was constructed in the year 1995. The petitioner/appellant was Pradhan of the Village in the past and she occupied the Panchayat Ghar and consequently her possession over the same was illegal.

6. It is admitted to the learned counsel for the parties that the property is situated over a joint khata. Therefore, to arrive at any conclusion as to whether the property from which the petitioner/appellant was allegedly dispossessed, was situated over the land actually recorded in her name or the land which was donated for the Panchayat Ghar, a factual inquiry is necessary.

7. For the said purpose, remedy is provided u/s 41 of the U.P. Land Revenue Act, 1901.

8. In the facts and circumstances of the case, we are of the considered opinion that interest of justice would be served in permitting the petitioner to avail the remedy



2026:UHC:747-DB

provided u/s 41 of the U.P. Land Revenue Act, 1901.

9. Accordingly, we dispose of the instant appeal with liberty to the petitioner/appellant to file appropriate application before the Collector u/s 41 of the U.P. Land Revenue Act, 1901 and in the event any such application is filed, the same shall be decided strictly in accordance with law, as expeditiously as possible and not later than six months from the date of filing of the said application.

10. Accordingly, the order of learned Single Judge shall stand modified to the extent indicated above.

(MANOJ KUMAR GUPTA, C. J.)

(SUBHASH UPADHYAY, J.)

Dated: 10.02.2026

Rajni

**RAJINI
GUSAIN**

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