



2026:UHC:470-DB

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			SPA No.447 of 2025 <u>Hon'ble Manoj Kumar Tiwari, J.</u> <u>Hon'ble Siddhartha Sah, J.</u> Mr. Atul Kumar Bansal, learned counsel for appellants appeared through V.C. 2. Mr. R. C. Joshi, learned Brief Holder for the State. 3. Mr. Rahul Consul, learned counsel for the respondent no.2. 4. This is an intra-Court appeal against judgment dated 24.11.2025 rendered by learned Single Judge in WPMS No.3210 of 2025. By the said order, challenge thrown by appellant to a sealing order passed under Section 28-A of the Uttarakhand Urban and Country Planning Development Act, 1973 (hereinafter referred to as "the Act") was rejected on the ground that he has remedy of appeal under clause 4 of Section 28-A of the Act. 5. Appellant has challenged the judgment rendered by learned Single Judge on the ground that the sealing order is passed against one Mr. Javed Siddique, who has nothing to do with the property in question, and appellant's appeal would not be entertained, as the order of sealing is not passed against him. 6. Learned counsel for the appellant submits that appellant is the owner of property, however, as the sealing order is passed against a person who is complete stranger to the property, therefore, appellant is denied the right of filing appeal. Thus, he submits that the judgment rendered by learned Single Judge is interferable as appellant has become remediless because of the sealing order passed against a third



		person. 7. Mr. Rahul Consul, learned counsel appearing for District Level Development Authority, however, submits that Mr. Javed Siddique, against whom sealing order has been passed, is the occupier of the under construction building, therefore, the sealing order was rightly passed against him. 8. He refers to Section 43(2) of the Act for contending that sealing order can be passed also against an occupier. Sub-section 2 of Section 43 of the Act is extracted herein below:- “43(2) Any document which is required or authorised to be served on the owner or occupier of any land or building may be addressed 'the owner' or 'the occupier', as the case may be, of that land or building (naming, that land or building) without further name or description, and shall be deemed to be duly served- (a) if the document so addressed is sent or delivered in accordance with Clause (d) of Sub-section (1), or (b) If the document so addressed or a copy thereof so addressed, is delivered to some person on the land or building or, where there is no person on the land or building to whom it can be delivered, is affixed to some conspicuous part of the land or building.” 9. He further submits that the order of sealing, which was challenged by the petitioner in Writ Petition, is appealable by any aggrieved person, under clause 4 of Section 28-A of the Act. This Court finds substance in the submission made by learned counsel for the Development Authority. Since the sealing order is appealable, therefore, learned Single Judge was justified in dismissing the Writ Petition on the ground of alternate remedy. As submitted by Mr. Rahul Consul, the appeal filed by appellant against the impugned sealing order would be maintainable in view of provision contained in clause 4 of Section 28-A of the Act. 10. We, therefore, dispose of the appeal with direction to the
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		Commissioner to consider and decide the appeal filed by appellant on merits, if same is filed within 10 days. 11. It shall also be open to appellant to exercise all rights, which are available under the aforesaid Act to owner of the building, provided appellant is able to substantiate his claim regarding title. (Siddhartha Sah, J.) (Manoj Kumar Tiwari, J.) 10.01.2026 Akash
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