

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 2144 of 2025 (M/S)

Mohd. Ajeez and Others

.....Petitioners

Versus

State of Uttarakhand and Others

.....Respondents

Present:-

Mr. Prem Kaushal, Advocate for the petitioners.

Mr. M.S. Bisht, Brief Holder for the State.

JUDGMENT

Hon'ble Ravindra Maithani, J. (Oral)

The challenge in this petition is made to the notice dated 11.07.2025, issued by the respondent no.4/Jiledar, Irrigation Division, Rudrapur, District Udham Singh Nagar. By it, the petitioners have been required to remove encroachment or else they will be forcibly evicted.

2. Heard learned counsel for the parties and perused the record.

3. Learned counsel for the petitioners submits that there is no such law to dispossess the petitioners from their place, where they have been staying since past 50 years; the petitioners were about to be given lease of the land on which they are in possession.

4. Yesterday, the Court wanted to know from learned State Counsel as to under what provision of law, such notice could be given? Today, learned State Counsel submits that earlier also the petitioners were given notices to remove the encroachment. Now, the notice has been given under Section 441 IPC and under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 ("the Act"). He submits that while quashing the notice, the respondents-authority may be given liberty to proceed against the petitioners in accordance with law. He has placed for the perusal of the Court the written instructions. Let it be taken on record.

5. The notice does not reveal that it is issued under the provisions of the Act. It is not clear as to under what provisions of law, the impugned notice has been issued. There is no determination of the rights of the parties. Does any law permit such eviction? It is also not shown in the instant case. Therefore, this Court is of the view that while quashing the impugned notice, the respondents-authority may be given liberty to proceed against the petitioners in accordance with law. Accordingly, the writ petition deserves to be allowed.

6. The writ petition is allowed. The impugned notice dated 11.07.2025 is quashed.

7. However, the respondents-authority shall be at liberty to proceed against the petitioners in accordance with law.

(Ravindra Maithani, J)
22.07.2025

Ravi Bisht