UKHC010027662019

2026:UHC:10057-DB

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE THE ACTING CHIEF JUSTICE SRI MANOJ KUMAR TIWARI
AND
HON'BLE SRI JUSTICE SUBHASH UPADHYAY

WRIT PETITION (PIL) NO. 17 OF 2019

2ND NOVEMBER, 2026

Yogesh Nautiyal ..... Petitioner

Versus

Union of India and others ..... Respondents

Counsel for the petitioner : Mr. Raghav Singhal, learned counsel

Counsel for the respondents : Mr. Manoj Kumar, learned Standing Counsel for the Union of India

: Mr. Gajendra Tripathi, learned Standing Counsel with Mr. M.S. Bisht, learned Brief Holder for the State

The Court made the following:

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

1) By means of this writ petition, petitioner has sought the following relief :

i) To call for the entire record of proposed leasing out of the land in question in favour of the respondent No. 6 and to quash/set aside any lease/allocation of land to respondent No. 6 by the State authorities and to further restrain the respondent Nos. 1 to 5 from transferring the land in favour of the private respondent and from doing any activity over the land in question which may result into felling of trees and changing the nature of the same.

2) A counter-affidavit is filed by Ms. Kahkashan Naseem, Divisinal Forest Officer, Mussoorie Forest Division, Mussoorie on behalf of respondent No. 5. Paragraph Nos. 3, 4 and 5 of the said counter-affidavit are reproduced below :

> 3. That before giving parawise reply to the contents of the PIL writ petition, the deponent would like to submit that the proposal for grant of lease over the land recorded in Category 9(3)e in the name of State Government bearing Khasra No. 492 measuring 0.200 hectare in Village Kandi Banglo Ki Patti Chhaijula, Tehsil Dhanaulti in favour of Sri Sunil Nautiyal, Chairman, Paryatan Vikas Evam Yuva Kalyan Samiti (Regd.), Kempty, Tehri Garwhal a Joint Inspection was conducted on 28.11.2016 by the officials of Revenue Department and Forest Department. As per the report 50 trees (Bush Trees) of Kukat species (non-timber) were found standing on the land in question. In the said Inspection it was found that the land in question is outside the Forest land, but the said land is in the nature of Forest. Consequently, it was opined that as per the provisions of Forest Conservation Act, 1980 the proposal should be sent to the Government of India for transfer of the land in question. For ready reference, true/correct typed version/copy of the Inspection Report dated 28.11.2016 are collectively being annexed as Annexure C.A.-1 to this affidavit.
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> 4. That on the proposal submitted by the Govt. of Uttarakhand before the Union of India, the Ministry of Forest and Environment, Govt. of India vide letter No. 8E/U.C.P./09/06/2018/F.C./1081 dated 29.08.2018 accorded sanction for construction of parking over the land in question and consequent whereof the Forest and Environment, Section 04, Government of Uttarakhand vide Order No. 980(1) dated 30.11.2018 sanctioned the lease for 20 years for construction of Parking in favour of Users Agency / Chairman, Paryatan Vikas Evam Yuva Kalyan Samiti (Regd.) Kempty, Tehri Garhwal. True/correct typed version/copy of the Govt. of India and the Order dated 30.11.2018 are collectively being annexed as Annexure CA-2 to this affidavit.
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> 5. That it is not out of context to state here that Kempty Fall is a renowned Tourist Place in Uttarakhand and large number of Tourists visit the said place, consequent whereof there is problem of Parking Place for the vehicle. Considering the volume of vehicles in the said area the State Government decided to lease out the land in

question for 30 years in favour of a registered society namely Paryatan Vikas Evam Yuva Kalyan Samiti. It is submitted that in pursuance of the provisions of the Government Order regarding felling of less number of trees, the inspection of the site in question was conducted by the officials of Mussoorie Forest Division and it was found that there are 25 trees of Gautai species having 0-10 dia-centimeter and 03 trees of Sypris species, today 28 trees and no valuation of the said trees was required.

3) Central Government has also filed a separate short counter-affidavit. Relevant portion of Paragraph 4 of the said affidavit is extracted below :

> "4. In reply to content of para no. 1 of the writ petition, it is submitted that the most part of this para are matter of record and does not pertain to the replying respondents, as far as the answering respondent is concerned, Section 2 of the Forest (Conservation) Act 1980 imposes Restriction on the de-reservation of forests or use of forest land for non-forest purpose:-
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> Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing –
>
> (i) ...
> (ii) ...
> (iii) ...
>
> (iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reafforestation. The photostat copy of the aforesaid relevant Section of Forest (Conservation) Act, 1980 is being filed herewith and marked as Annexure-SCA-1.
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> However, the proposal no-FP/UK/OTHERS/20979/2017 namely Construction of parking at Kempty Fall has been received online to the Regional Office of the replying respondent on dated 09.01.2018 through State Government of Uttarakhand. By way of lease seeking diversion of 0.2 hectare of forest land with felling permission of 22 trees in favour of Paryatan Vikas Evam Yuva Kalyan Samiti (Regd.) for non-forest purposes under sub-section (iii) of section 2 of the Forest (Conservation) Act, 1980. Thereafter, the proposal was examined and requisite information has been sought by the Regional Office of the replying respondent time to time from the State Government. The respondent no. 1 accorded Stage-I & Stage-II (final approval) vide letter No.

08B/U.C.P./09/06/2018/F.C./305, dated 17.05.2018 and letter No. 08B/U.C.P./09/06/2018/F.C./1081, dated 29.08.2018 respectively, with subject to fulfilling the conditions as stipulated therein and as per the existing guideline issued by the Ministry of Environment, Forest & Climate Change, New Delhi as amended from time to time. Photostat copy of letter No. 08B/U.C.P./09/06/2018/F.C./305, dated 17.05.2018 and letter No. 08B/U.C.P./09/06/2018/F.C./1081, dated 29.08.2018 is being filed herewith and is marked as Annexure-SCA-2.

4) Since the permission of the Central Government was obtained before allotting the land in question to the user agency for running a vehicle parking, therefore, there is hardly any scope for interference in the matter.

5) The writ petition is, accordingly, disposed of.

6) Pending application(s), if any, also stand disposed of.

MANOJ KUMAR TIWARI, A.C.J.

SUBHASH UPADHYAY, J.

Dt: 2ND NOVEMBER, 2026
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HIMANSHU NEGI

Digitally signed by HIMANSHU NEGI
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