UKHC010198642026

2026:UHC:10607

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 3430 of 2026 (M/S)

Rama Bisht and Others .....Petitioners

Versus

Govind Ballabh Pant National Himalayi Environment Institute Koshi Katarmal and Others .....Respondents

Present:-

Mr. Sanjay Bhatt, Advocate for the petitioner.
Mr. Sudhir Kumar Nailwal, Standing Counsel for the State.
Mr. Rajesh Pandey, Central Government Standing Counsel for respondent nos. 1 and 2.

JUDGMENT

Hon'ble Ravindra Maithani, J. (Oral)

The challenge in this petition is made to the following:-

(i) The judgment and order dated 21.11.2023, passed in Zamindari Abolition Appeal No,44/2021-22/29/2022-23, Govind Ballabh Pant National Himalayi Environment Institute Koshi Katarmal and Others v. Vikram Singh Bisht and others, by the Additional Commissioner, Kumaon Mandal, Nainital ("the first appeal"). By it, the order dated 28.06.2022, passed in Revenue Suit No.2/2020-21, Vikram Singh Bisht and Others v. Govind Ballabh Pant National Himalayi Environment Institute Koshi Katarmal and Others ("the case") has been set aside. In fact, by its order dated 28.06.2022, the Assistant Collector, I Class, Almora, has allowed an application under Section 209 of the U.P. Zamindari Abolition and Land Reforms Act, 1950 ("the Act"), filed by the petitioner.

(ii) The judgment and order dated 28.09.2026, passed in Second Appeal No.97 of 2023-24, Vikram Singh Bisht and Others v. Govind Ballabh Pant National Himalayi Environment Institute Koshi Katarmal and Others, under Section 331(4) of

the Act, by the Board of Revenue Uttarakhand, Circuit Court, Nainital ("the second appeal"). By it, the judgment dated 21.11.2023, passed in the appeal has been upheld.

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

3. The petitioner claimed ownership on certain portion of land, which, according to the petitioner, was occupied by the respondents. Therefore, the petitioner filed an application under Section 209 of the Act in the court of Assistant Collector, I Class, Almora, which is the basis of the case, which was decided on 28.06.2022, and the claim of the petitioner was upheld, and the respondents were directed not to interfere into the peaceful possession of the petitioner in the property in dispute. This order was upset by the judgment dated 21.11.2023, passed in the first appeal, which order was confirmed on 28.09.2026, in the second appeal.

4. Learned counsel for the petitioner submits that when the petitioner filed the case, the respondents did file their objections, and in Para No. 21 of their written statement, they claimed that the land may be surveyed so that the things may be clear. Thereafter, it is argued that the Revenue Inspector inspected the land in question on 22.01.2021, and submitted its reports. He submits that the respondents claimed that the land was acquired for their purpose, but there was no notification as such placed in the proceedings of the case and a copy of the notification, which was given to the Revenue Inspector at the time of inspection was merely a Photostat copy. It is argued that the case was decided by the Assistant Collector, I Class, Almora, based on the survey report dated 22.01.2021 of the Revenue Inspector, and also considering the fact that the respondents did fail to produce the original notification.

5. It is argued that this is the finding, which is based on material, and it does not warrant any interference, but it is submitted that in the first and the second appeal, a contrary view is taken, which is not in accordance with law.

6. Learned counsel appearing for the respondents submits that the impugned orders are in accordance with law; in fact, in the year 2019, a joint inspection was made of the property, but it could not be completed due to rainy season and other reasons. He submits that the report is Annexure No.2 to the writ petition. He further submits that in the impugned judgments, it is rightly recorded that the Government Notification may not be discarded merely on the ground that it is Photostat copy. It needs to be examined, and its genuineness ought to have been established by the court in the case, which was not done. Therefore, it is argued that while remanding the case, no illegality has been done in the first appeal, the order which was upheld in the second appeal.

7. It is true that in the case, the respondents did file objections and they raised a plea that the land may be surveyed so that things may be established. It appears from Annexure No.12, the Inspection reported dated 22.01.2021 of the Revenue Inspector, that an inspection was done. It records that it was verification of the land. There would be multiple questions with the verification. The position of the land could only be established by survey. There may not be any other method, and for conducting survey, there should be measurement to ascertain the position of the land and the measurement are required to be the part of the survey report. But the report, which is Annexure No.12 to the writ petition, is not such survey report.

8. Be it as it may, there are four points in the survey report. On the land, which is included in point nos. 1, 3 and 4, the respondents were not found in possession. Certain land has been included in point no.2 in its inspection report dated 22.01.2021 of the Revenue Inspector (Annexure No.12), but it records that its notification's photocopy is enclosed. Does it mean that this land was acquired by way of any Government Notification? A copy of the notification was filed, which definitely ought to have been examined by the Assistant Collector, I Class, Almora, to ascertain its genuineness. Was it forged? There ought to have been a finding on it, which is not done.

9. Moreover, it is also a fact that an effort was made to jointly inspect the property on 01.08.2019, which was pursuant to the order or Sub-Divisional Magistrate, Almora, but the survey could not be conducted. This is also a fact that has been taken into consideration in the first and the second appeal.

10. Having considered, this Court is of the view that definitely, the land ought to have been surveyed jointly and the notification, copy of which was submitted to the Revenue Inspector by the respondents, should be examined by the Assistant Collector, I Class, before deciding the application under Section 209 of the Act. That is what is directed in the first appeal, which order is confirmed in the second appeal. Therefore, there is no illegality in the impugned orders. Accordingly, the writ petition deserves to be dismissed.

11. The writ petition is dismissed.

(Ravindra Maithani, J)
19.11.2026

Ravi Bisht