

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO(S). 6568 OF 2024

BIRENDRA SINGH

....APPELLANT(S)

VERSUS

**UNION OF INDIA
& ORS.**

....RESPONDENT(S)

WITH

CIVIL APPEAL NO(S). 9938 OF 2024

O R D E R

1. Heard.
2. The appellant in Civil Appeal No. 6568 of 2024, being the writ petitioner before the High Court of Uttarakhand in Writ Petition (PIL) No.44 of 2020, sought directions in the nature of mandamus commanding respondent No. 1, Union of India, through the Secretary, Ministry of Environment, Forest and Climate Change, and respondent No. 2, State of Uttarakhand, through the Secretary, Forest and Environment, to permanently restrain respondent Nos. 3 and 4, or their agents, employees

or representatives from going ahead with the project activities being carried out by the name of “Devanya” in Guni Gaon Gram Sabha in District Nainital. A further direction was sought against respondent Nos. 1 to 5 to ensure that no commercial project of any size be commenced in the State of Uttarakhand without the requisite permission under law, and after a comprehensive Environment Impact Assessment (EIA) for such projects.

3. The appellant in Civil Appeal No. 9938 of 2024, being the writ petitioner before the High Court in Writ Petition (PIL) No.141 of 2023, prayed for a direction restraining respondent No.6, Devanya Hotel and Resorts Pvt. Ltd., from carrying out construction activities, including construction of roads, and for a further direction to respondent No.1, District Magistrate, Nainital, to stop further construction in the Van Panchayat forest area, which is under the control of the respondent No. 6. A further prayer was made to respondent Nos. 1 to 6 to remove/demolish all structures, including roads and gates, put up on the Van Panchayat land in Guni Gaon Gram Sabha. Thus, the reliefs sought in both the writ petitions were substantially overlapping.

4. The appellants in both the appeals are aggrieved by the project being brought up by the private respondents, namely, Devanya Hotel and Resorts Pvt. Ltd./Devanya Private Ltd. on the subject parcel of land and have raised a grievance that the commercial project of the respondents is being brought up without any environmental clearances or approved building plans. Pristine forest lands have been encroached upon, and forest cover from the hills has been destroyed under the garb of carrying out construction activity on the land owned by the private respondents whereas the fact remains that the areas which are covered under the definition of 'deemed forest' have also been taken over by the private respondents. A specific undertaking was given by the private respondents in the High Court that no trees would be felled without permission from the competent authority but in spite thereof, large number of native trees have been removed and pristine forest cover has been destroyed from the hills resulting into massive ecological damage.

5. Having considered the material available on record, we find that the core dispute in the matter turns on the question as to whether the area in

question on which the private respondents are bringing up the project is covered under the definition of 'deemed forest' or not and whether the construction activity can be carried out without procuring environmental clearances and approved building plans from the concerned local authority.

6. Previously, under the notification issued by the State Government, the minimum area with tree cover required to be treated as deemed forest was 10 hectares, which was reduced to 5 hectares by the State of Uttarakhand *vide* notification dated 19th February, 2020. The said notification has been assailed in Writ Petition (PIL) No. 209 of 2019 and connected matters, which are admittedly pending consideration before the High Court of Uttarakhand and the notification has been stayed. It was pointed out that, originally, the writ petitions of the appellants were tagged with the aforesaid batch of writ petitions.

7. Today, during the course of hearing, learned counsel appearing for the appellants vehemently and fervently urged that under the garb of clearing their own land for establishment of the project, the private respondents have felled a large number of trees and

have destroyed massive forest cover from adjacent areas. It is further urged that roads have been carved out by cutting hill areas which are Government lands.

8. This submission of the appellants is vehemently controverted by Mr. Sushil Salwan, learned senior counsel representing the private respondents, urging that various local inspections have already been carried out on the disputed site and the Court Commissioners, the Sub-Divisional Magistrate, and even the State forest officials have given a clean chit to the respondents' project with the specific finding that neither any forest area has been encroached upon nor have any trees been felled by the respondents from Government lands or contrary to rules. He urged that the present appeals have no connection whatsoever with the pending writ petition(s) and that the appeals should be dismissed as being motivated and devoid of merit.

9. Having considered the submissions advanced at bar and after going through the material placed on record, particularly the Google images shown to the Court by the learned counsel for the appellants during the course of hearing, we are of the opinion

that a detailed survey of the area in question has to be carried out by an independent oversight agency. In this view of the matter, we hereby direct the Central Empowered Committee (CEC), constituted by this Court [now functioning under the Environment (Protection) Act, 1986], to nominate a competent official for carrying out an extensive survey of the area in question and to submit a detailed report for the perusal of this Court. While conducting the survey/inspection, the CEC shall also examine the issue as to whether the project in question is permissible without environmental clearances and without approval of building plans from the concerned local authority. The CEC shall also examine the issue of felling of trees and destruction of forest cover, if any, and encroachment on Government lands during construction of the approach roads to the site in question. The comparative status of the tree cover in the subject area during the last 10 years shall be kept in mind by the CEC while making the inspection. The report shall be furnished to this Court in a sealed cover within three weeks.

10. Learned AOR for the appellants and the respondents shall contact and provide all necessary documents/details to the CEC for conducting this inspection/survey. The concerned officials of the Forest and Revenue Departments of the State of Uttarakhand along with the Police Department and the District Administration shall cooperate with and provide all requisite facilities to the CEC/its authorized officer for carrying out the inspection.

11. The CEC shall indicate to this Court the expenditure borne in carrying out the aforesaid exercise. The appellants as well as the private respondents shall bear the aforesaid expenditure in the ratio of 50:50.

12. Registry is directed to communicate a copy of this order to the Central Empowered Committee (CEC) forthwith.

13. List on 9th September, 2026.

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANDEEP MEHTA)

NEW DELHI;
JULY 16, 2026.