HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (M/S) No. 284 of 2019

Faruk and others ... Petitioners

Versus

State of Uttarakhand and others ...Respondents

Advocates : Mr. M.K. Goyal, Advocate for the petitioners
Mr. Jagdish Singh Bisht, Standing Counsel for the respondents

Reserved on :21.11.2026
Delivered on :27.11.2026

Hon'ble Manoj Kumar Tiwari, ACJ.

1. By means of this writ petition, petitioners have sought the following reliefs:

> "I. to issue a writ, order or direction in the nature of mandamus directing the respondents no.1 to 5, not to dispossess the petitioners in an illegal and arbitrary manner from the land found in their possession and houses build on it, without due process of law and to abide by the provisions of Uttar Pradesh Zamindari Abolition and Land Reforms Act 1950 and law of Land.
>
> II. to issue a writ, order or direction in the nature of mandamus directing the respondents no.1 to 5, to abide by the order dated 28.03.2014 of this Honble Court, passed in W.P.P.I.L. No. 101 of 2013, Jagat Ram Versus State of Uttarakhand and others."

2. Petitioners contend that father of petitioner Nos. 1, 2 and 3 came in possession over the land comprised in Khasra Nos. 385 and 386, admeasuring 0.0570 hectare, situate at village Seesamwada, District Dehradun on 16.03.1956, on the basis of anomalous mortgage, executed by one Azimuddin and three houses have been constructed over the said land by petitioner Nos. 1, 2 and 3 where they are living with their family.

3. It is further contended that petitioner Nos. 4 and 5 have also constructed residential houses over khasra Nos. 740, 741(ka) and 741(kha) in the same village.

4. In para 8 of the writ petition, reference to order dated 28.03.2014, passed in Writ Petition (PIL) No. 101 of 2013 is made. The said order is reproduced below:

> "The Liquidator is present in Court. He has submitted that he was told by the Sub Divisional Magistrate, Vikas Nagar that part of the land belonging to the Society is in possession of persons not connected with the Society and, accordingly, he cannot provide assistance for taking possession of that land.
>
> 2. The Liquidator has submitted, in Court, that while he asked the Sub Divisional Magistrate, Vikas Nagar to show the documents, in terms whereof, that part of the land has gone in the possession of persons other than the Society, the Sub Divisional Magistrate, Vikas Nagar refused to provide the same. He has further submitted that, inasmuch as, direction of the Court was to take actual physical possession of the properties of the Cooperative Society, he has not taken possession of only a part thereof.
>
> 3. We direct S.S.P., Dehradun, Sub Divisional Magistrate, Vikas Nagar and Circle Officer, Police Station - Vikas Nagar to be personally present on 5th April, 2014 at the place in question and ensure taking of actual physical possession of the properties of the Cooperative Society by the liquidator. In the event, somebody is in possession of any part thereof, though his possession will not be affected, but his name and particulars must be ascertained by the Sub Divisional Magistrate, Vikas Nagar and he must also obtain from such person the document, if any, on the basis whereof such person is in possession. Let a separate report be submitted by the Liquidator and the Sub Divisional Magistrate, Vikas Nagar in Court on 22nd April, 2014 after complying with the above order.
>
> 4. Let a copy of this order be handed over to the learned Chief Standing Counsel for communication to the Sub Divisional Magistrate, Vikas Nagar and a copy of the order be also handed over to the Liquidator, today itself.
>
> 5. Personal presence of the Liquidator is no longer necessary.
>
> 6. List on 22nd April, 2014."

5. Petitioners admit that they were impleaded as respondents in said PIL, which was disposed of vide order dated 20.06.2018. Operative portion of the said final order is extracted below:

> "Since the liquidator has failed to comply with the orders, therefore, the Registrar, Uttarakhand Cooperative Societies is directed to ensure the restoration of the Society's land as per the order dated 28.03.2014. The Chief Secretary of the State of Uttarakhand is directed to take disciplinary action against the liquidator for flouting the orders passed from time to time deliberately/willfully in collusion with the private respondents. He will be put under suspension immediately.
>
> In view of the above observations and directions, the writ petition stands disposed of."

6. Petitioners contend that in the order dated 28.03.2014, passed in aforesaid PIL, Division Bench had directed that if somebody is in possession of the properties of the Cooperative Society, his possession will not be affected, but threat of dispossession is looming large over the head of the petitioners.

7. It is contended that the land over which petitioners' houses are constructed, has nothing to do with the cooperative society (Singhaniwala Sanyukth Sahakari Kheti Samiti, Signiwala).

8. It is further contended that more than 12 years have elapsed, but eviction proceedings were never initiated against the petitioners by the cooperative society, therefore in view of Section 210 of Uttarakhand Zamindari Abolition and Land Reforms Act, rights of the petitioners have matured and they have perfected their title over the land by adverse possession.

9. In para 14 of the writ petition, it is contended that any dispute regarding possession or dispossession of a person from land recorded in revenue records is to be decided as per the law dealing with revenue land prevailing in the State.

10. A counter affidavit is filed by Mr. Anand Singh, Assistant Development Officer (Cooperative) on behalf of respondent No. 2, where it is stated that Sanyunkt Sahkari Kheti Samiti Ltd., Singhaniwala was registered under U.P. Cooperative Societies Act, 1965; it was formed by 18 persons for the purpose of joint farming as such, they pooled their agricultural land, the total area of land pooled by the members was 38.58 acres.

11. It is stated in para 6 of the counter affidavit that as per provision contained in Section 82(1) of Uttarakhand Cooperative Societies Act, 2003, the cooperative society is liable to return back the land contributed by any member in case he ceases to be member of the cooperative society.

12. It is stated that since the cooperative society failed to achieve its object, as such, the then Deputy Registrar, Cooperative Society, Garhwal Region decided to wind up the society and passed order dated 09.03.1978 appointing Assistant Development Officer (Cooperative), Sahaspur as Liquidator of the Samitti; charge of the cooperative society was not handed over to the liquidator and the Secretary of the cooperative society without any authority continued to hold charge of all the documents and assets of the cooperative society; the successive Assistant Development Officers of Block Sahaspur, who

were ex-officio liquidator of the cooperative society, never took any interest in liquidation of the cooperative society as records of the cooperative society were never taken over by any of the liquidator.

13. Para 11 of the said counter affidavit is extracted below:

> "11. That in the meantime a large portion of the land of Samiti was encroached and illegally sold or misappropriated by unauthorized persons. However, as per revenue records the total land in the name of Samiti was around 15-41 Hectares, out of which 13-237 Hectares in revenue records is shown in the name of State Government in result of illegal mutation made in favor of Golden Forest Company. Further, it is also learnt that in Civil Appeal No. 3195 of 2011 State of Uttarakhand Vs. Ms Golden Forest Company the Hon'ble Supreme Court has remanded the dispute to Uttarakhand Board of Revenue, Dehradun which is still pending for decision. Hence, the revenue records are showing 2-1700 Hectares of land in the name of Samiti and even this land is in illegal possession of various people inasmuch as a case numbered as 24/2000-2001 Lalu Vs. Sanyunkt Sahakri Kheti Samiti under Section 229 (b) of UP Land Reform Act is pending for disposal before Sub Judicial Magistrate, Vikasnagar (Dehradun). According to revenue authorities now this case has been transferred to Additional Commissioner, Garhwal. Another case no.21/2011-12 Mehar Singh and others Vs. Sanyunkt Sahakri Kheti Samiti under Section 229 (b) of UP Land Reform Act is also pending for disposal before Sub Judicial Magistrate, Vikasnagar (Dehradun)."

14. From the averments made in the writ petition, it is apparent that there is some dispute as to whether the land which petitioners claim to be theirs, is part of the land which was pooled for joint farming by the 18 members, who formed the cooperative society, or not. Whether the land forms part of the cooperative society, formed for joint farming, or not, is a disputed question of fact, which cannot be decided in a writ petition under Article 226 of the Constitution.

15. Petitioners have claimed benefit of Section 210 of Uttarakhand Zamindari Abolition and Land Reforms Act which reads as under:

> **"210. Consequence of failure to file suit under Section 209.-** If a suit of eviction from any land under Section 209 is not instituted by a bhumidhar or asami, or a decree of eviction obtained in any such suit is not executed within the period of limitation provided for in-situation of such suit or the execution of such decree as the case may be, the person taking or retaining possession shall-
>
> (a) Where the land forms part of the holding of a bhumidhar with transferable rights, become a bhumidhar with a transferable rights of such land and the right, title and interest of an asami, if any, in such land shall be extinguished;
>
> (b) Where the land forms part of the holding of a bhumidhar with non-transferable rights, become a bhumidhar with non-nontransferable rights and the right, title and interest of an asami, if any, in such land shall be extinguished;
>
> (c) Where the land forms part of the holding of an asami on behalf of the Gaon Sabha, become an asami of the holding from year to year.
>
> Provided that the consequences mentioned in Clauses (a) to (c) shall not ensure in respect of any land held by a bhumidhar or asami belonging to Scheduled Tribe.
>
> Scheduled Tribe is in occupation of any person other than such tenure-holder, the Assistant Collector may, *suo motu* or on the application of such tenure-holder, put him in possession of such land after evicting the occupants and may for that purpose use or cause to be used such force as may be considered necessary, anything to the contrary contained in this Act notwithstanding.
>
> (2) Where any person, after being evicted from any land under sub-section (1), re-occupies the land or any part thereof without any lawful authority, he shall, be punishable with imprisonment for a term which may extend to two years but which shall not be less than three months and also with a line which may extend to three thousand rupees but which shall not be less than one thousand rupees.
>
> (3) Any Court convicting a person under sub-section (2) may make an order to put the tenure-holder in possession of such land alter evicting the person

> summarily from such land or any part thereof and such person shall be liable to eviction without prejudice to any other action that may be taken against him under any other law for the time being in force,
>
> (4) Every offence punishable under sub-section (2) shall be cognizable and non-bailable and notwithstanding anything contained in the Code of Criminal Procedure 1973, may be tried summarily.
>
> (5) For the purpose of speedy trial of offence, under this section, the State Government may, in consultation with the High Court, by notification constitute special Courts consisting of any officer not below the rank of Sub Divisional Magistrate, which shall, subject to the provisions of the Code of Criminal Procedure, 1973, exercise in relation to such offences the powers of Judicial Magistrate of the first class."

16. Petitioners contend that by virtue of their long possession over the land in question they have perfected their title. However, for claiming title based on adverse possession, one has to prove hostile possession, starting point of hostile possession and animus possidendi.

17. Section 229-B of Uttarakhand Zamindari Abolition and Land Reforms Act provides the forum where a person can seek declaration of his rights and the contentions raised by petitioners in this writ petition can be appropriately dealt with by the Assistant Collector, First Class in proceedings under Section 229-B of the said Act.

18. Law is well settled that disputed questions of fact or question of title cannot be adjudicated in public law remedy provided under Article 226 of the Constitution of India. Such disputes can best be resolved before a competent Court of law, Civil or Revenue.

19. In such view of the matter, without expressing any opinion on the merits of the contentions raised by the parties, the writ petition is disposed of with liberty to petitioners to approach the competent Court for adjudication of their rights.

20. Only for a period of four weeks, *status quo* as regards possession over the land in question shall be maintained to enable the petitioners to approach the appropriate forum.

(Manoj Kumar Tiwari, ACJ.)
27.11.2026

Mahinder/
MAHINDER
SINGH

Digitally signed by MAHINDER SINGH
DN: c=IN, o=HIGH COURT OF UTTARAKHAND, ou=HIGH COURT OF UTTARAKHAND,
2.5.4.20=da6212e6e78d94ed3134842bc6a8d6ca168979ca7b8c2f031a92d1a18b08923c, postalCode=263001, st=UTTARAKHAND,
serialNumber=A87787C5B24090883928E84F5CDD4C2AF35DC4626D305B1BC9EA4BA8A43D2B8F, cn=MAHINDER SINGH
Date: 2026.11.27 18:17:20 +05'30'