

ITEM NO.41 Court 6 (Video Conferencing) SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No(s).27643/2020

(Arising out of impugned final judgment and order dated 18-11-2020 in WPIL No. 3/2020 passed by the High Court of Uttarakhand at Nainital)

DILBAGH SINGH & ORS.

Petitioner(s)

VERSUS

THE STATE OF UTTARAKHAND & ORS.

Respondent(s)

(WITH I.R. and IA No.132212/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.132211/2020-EXEMPTION FROM FILING O.T. and IA No.132208/2020-PERMISSION TO FILE SLP and IA No.132210/2020-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 18-12-2020 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE INDU MALHOTRA
HON'BLE MS. JUSTICE INDIRA BANERJEE

For Petitioner(s) Mr.Rajeev Aggarwal, Adv.
 Mr.Anant Agarwal, Adv.
 Ms.Ritika Khanna, Adv.
 Ms. Sweta Rani, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

- 1 Permission to file the Special Leave Petition granted.

- 2 The petitioners and their predecessors claim to have been in possession of their shops at Jhanda Chowk, Tehsil Kotdwar, District Pauri Garhwal, Uttarakhand for nearly seventy years. On 29 May 2019, a notice to show cause was issued to the first petitioner by the sixth respondent, alleging an encroachment on public property. Similar show cause notices were issued to all the petitioners. The

petitioners claim that they replied to the show cause notices. The sixth respondent directed the petitioners to appear for a hearing on 2 November 2019. According to the petitioners, by a letter dated 1 November 2019, the sixth respondent was requested to carry out a demarcation and measurement of the shops in accordance with the sanctioned plan. In the meantime, the eighth respondent preferred a writ petition in the public interest before the High Court seeking the removal of the encroachments made over the Nazul land belonging to Nagar Nigam Kotdwar and at other places which led to the impugned order of the High Court.

- 3 The grievance of the petitioners is that they were not made a party to the proceedings before the High Court by the eighth respondent. Before the High Court, the sixth respondent gave an undertaking that the encroachments would be removed within a period of eight weeks on the basis of which the writ petition was disposed of.
- 4 On 24 November 2020, a general public notice was issued giving three days' time for removal of the alleged encroachments.
- 5 Mr Anant Agarwal, learned counsel appearing on behalf of the petitioners, submits that the demolition action has been initiated and about eight shops have been demolished. Since the petitioners were not parties to the Public Interest Litigation which was instituted by the eighth respondent before the High Court, the learned counsel states that the petitioners would move the High Court in appropriate proceedings explaining the basis on which they claim that their possession is lawful. However, in order to enable the petitioners to do so, it has been submitted, that some reasonable time may be granted having regard to the fact that a period of four days is taken for the sanitization of documents before a petition can be taken up for hearing before the High Court.

- 6 Having regard to the above situation and since the petitioners were not parties in the proceedings before the High Court, we leave it open to them to adopt appropriate proceedings before the High Court, on the merits on which we express no opinion whatsoever. However, considering the current situation which has ensued due to the onset of the Covid-19 pandemic, we direct that *status quo*, as of today, shall be maintained until 8 January 2021 so as to enable the petitioners to move the High Court with an appropriate petition or application.
- 7 The present order has been passed without issuing notice to the respondents in view of the urgency of the situation.
- 8 The petitioners shall serve a copy of this order on the respondents immediately on the order being uploaded.
- 9 The Special Leave Petition stands disposed of.
- 10 Pending applications stand disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER