

THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition (M/S) No. 1328 of 2005

Sri Kapil Kumar, S/O Shri Shankar Singh,
R/O House/Shop 158/161, First Floor,
Pichari Bazar, Tallital, Nainital,
Tehsil & District Nainital.

... **Petitioner.**

Versus

Sri Shamshad Hussain, S/O Shri Ashak Hussain,
R/O House No. 158, Second Floor, Pichari Bazar,
Tallital, Nainital, At present R/O Kwaliti
General Store, Pichari Bazar, Talli Tal,
Nainital.

... **Respondent.**

Sri Siddarth Sah, Advocate, learned counsel for the petitioner.
Sri Syed Nadim, learned Counsel for the respondent.

Dated February 28, 2006.

PC: (Hon'ble B.S. Verma, J.)

The petitioner has filed this writ petition for quashing the order dated 25-8-2005 passed by the Civil Judge (Junior Division) Nainital, in Civil Suit No. 20 of 2004, Kapil Kumar Vs. Shamshad Hussain (Annexure No. 6) and order dated 9-11-2005, passed by the District Judge, Nainital in Misc. Civil Appeal No. 23 of 2005 (Annexure No. 8.)

Relevant facts of the case are that the petitioner-plaintiff filed a suit for permanent injunction against the respondent, which was registered as Civil Suit No. 20 of 2004 before the Civil Judge (Jr.Division) Nainital. The petitioner filed application 8-C under Order 39, Rules 1 and 2 CPC. Objections were filed by the defendant-respondent before the court below and advocate commissioner was appointed for spot inspection of the disputed property. The advocate commissioner filed his report. The learned Civil Judge (Jr.Div.) after hearing both the parties came to the conclusion that the plaintiff-petitioner failed to make out a case for grant of temporary injunction. Accordingly, the application 8-C was dismissed. Aggrieved, the petitioner went up

in appeal (Misc. Civil Appeal No. 23 of 2005) before the District Judge, which too was dismissed vide judgment and order dated 9-11-2005. Dis-satisfied by the impugned orders, this writ petition has been filed.

I have heard the learned counsel for the petitioner Sri Siddharth Sah and as well as learned counsel for the respondent Sri Syed Nadim and perused the entire material on record. The Civil Suit is pending since the year 2000.

In the course of arguments, the learned counsel for the petitioner confined his prayer that a direction for expeditious decision of the Civil Suit No. 20 of 2004, Kapil Kumar Vs. Shamshad Hussain, be issued to the Civil Judge (Jr.Division) Nainital and the interim order of status-quo granted by this Court be made effective till the decision of the Civil Suit. Learned counsel for the respondent has not objected to this submission.

Considering the facts and the circumstances of the case and the submissions of the learned counsel for the parties, I am of the view that in the ends of justice time bound direction for expeditious disposal of the civil suit be issued to the Civil Judge (Jr.Div.) Nainital.

Accordingly, the Civil Judge (Jr. Division) Nainital is directed to decide the Civil Suit No. 20 of 2004, Kapil Kumar Vs. Shamshad Hussain expeditiously preferably within a period of three months from today. Till the decision of the Civil Suit, the interim order to maintain status-quo dated 17-11-2005 shall remain effective.

With the above observations, the writ petition is disposed of finally.

(B.S. Verma, J.)

RCP