

HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 999 of 2001

1. Hardayal Singh s/o Late Sri Pritam Singh
R/o 7/8 Adetanand Marg, Rishikesh.
2. Sri Darshan Singh s/o Sri Umrao Singh
R/o 281 Kulagarh Road, Kishan Nagar,
P.S. Cantt. District Dehradun Applicants

Versus

1. State of Uttaranchal.
2. Sri M.K. Agarwal s/o Sri Ranjeet Singh
R/o 24, Neshvilla Road, Dehradun
.....Respondents

Dated: 30.11.06

Hon'ble Rajesh Tandon, J.

Heard Sri K.S. Verma counsel for the applicants and learned A.G.A. for the respondents.

By the present application under section 482 Cr.P.C. the petitioner has prayed for quashing of the proceedings of Criminal Case No. 1255 of 1986, M.K. Agarwal vs. Hardayal Singh and others under sections 466, 467, 477, 218 read with 120-B I.P.C. pending in the Court of Judicial Magistrate, Dehradun.

A complaint under section 467, 477, 218 and 120-B I.P.C. has been filed by the respondent no. 2 Sri M.K. Agarwal against the applicants and one another. It has been alleged in the complaint by respondent no. 2 that his brother K.K. Agarwal and his wife Smt. Raj Kumari purchased khasara Plot no. 276/48 and 276/22 from one Pritam Singh and Dalip Singh of

Rishkesh. Sri K.K. Agarwal and his wife Raj Kumar filed a case no. 605 of 77 for mutation before Tehsildar Rishikesh and on 10.10.77 Sri K.K. Agarwal and his wife were succeeded for getting their names recorded in the revenue records. On 16.6.1981, applicant no. 1 filed restoration applications before the Tehsildar Rishikesh to cancel the mutation order dated 10.10.77 in case No. 605/77 and 740/1978. The restoration applications were allowed and the land in dispute was entered in the revenue record in the name of the father of the applicant.

A perusal of the record shows that the dispute between the parties is entirely civil nature and the parties have remedy to get the dispute adjudicated in the civil Court.

So far as the instant petition under section 482 Cr.P.C. is concerned no interference can be made under section 482 Cr.P.C. as both the parties will be at liberty to lead the evidence in view of the observations made by the Apex Court in the case Medchl Chemicals and Pharma (P) Ltd. vs. Biological E. Ltd. and others (2003) 3 SCC 269.

Since the trial has to take place on the basis of complaint for the offences under aforesaid sections, therefore, without expressing any opinion on the merits of the case, I direct the applicants to appear before the Magistrate concerned and the court will permit them to file appearance bonds to the satisfaction of the Magistrate concerned for his regular appearance in the case.

Subject to the observations made above, application under Section 482 Cr.P.C. is dismissed.

Dated: 30.11.2006

Rajesh Tandon, J.

*Dhyani