

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL
Writ Petition (M/S) No. 1689 of 2010
Mahendra Kumar Son of Sri Roop Chandra and five others.

... Petitioners.

Versus

State of Uttarakhand and two others.

... Respondent.

Mr. Pankaj Kaushik, Advocate, learned counsel for the petitioners.

Mr. K.C.Tiwari, Brief Holder for the respondent no.1-State of Uttarakhand.

Mrs. Bina Pande, Standing Counsel (U.P.Govt.), learned counsel for the respondent nos. 2 and 3.

Date October 29, 2010.

Hon'ble B.S.Verma, J.

Heard.

By means of this writ petition, the petitioner has sought a writ in the nature of mandamus commanding the respondents not to interfere in peaceful and valid possession of the petitioner and further not to demolish their residential houses constructed by them on their own land having valid title over the same.

In the course of arguments, learned counsel for the respondents have raised a preliminary objection that this writ petition involves disputed questions of fact whether the petitioner has a title over the property in question and whether the petitioner is in possession of the disputed property. These matters may be examined by appraisal of evidence. Learned counsel has also submitted that the petitioner has alternate remedy of filing civil suit.

A perusal of the averments made in the writ petition goes to show that disputed questions of fact are involved in the present writ petition, which cannot be examined in exercise of writ jurisdiction. Moreover, the petitioner has an alternate remedy of filing civil suit before the competent court for redressal of his grievance.

On the ground of alternate remedy, I am not inclined to entertain the writ petition, which is dismissed accordingly.

(B.S.Verma, J.)