

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Delay Condonation Application No. 11003/2010

in

Restoration Application No. 1092/2010

Writ Petition No. 170 of 2002 (M/S)

Gurnam Singh S/o Sri Jagtar Singh ... Petitioner

Versus

Commissioner Kumaun Mandal Nainital
and others Respondents.

Mr. M.C. Kandpal, Senior Advocate assisted by Mr. S.S. Chaudhary
Advocate for the petitioner.

Mr. P.C. Bisht, Brief Holder for the State.

Mr. Sudhir Singh, Advocate for the respondent No.5.

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

Heard Mr. M.C. Kandpal, Senior Advocate, assisted by Mr. S.S. Chaudhary, Advocate for the petitioner, Mr. P.C. Bisht, Brief Holder for the State and Mr. Sudhir Singh, Advocate for respondent No.5 on delay condonation application as well as restoration application.

The grounds shown for delay in filing restoration application as well as for the absence of the petitioner on 8-2-2010, when the writ petition was dismissed for default of the petitioner, are satisfactory. Therefore, the delay condonation as well as the restoration applications are allowed. The writ petition is restored to its original number.

Learned counsel for parties agreed to dispose of the writ petition today itself.

By means of this petition the petitioner has prayed that the land of Khata No. 29, Plot No. 114/2, area .506 hectare, situated in Village Sarovar Nagar, Tehsil Gadarpur, District Udham Singh Nagar, may not be auctioned if the petitioner deposits the debt amount within four quarterly instalments and amend the Commissioner Order dated 13.3.2002 up-to this date, which is Annexure No.3 to this writ petition.

Since the earlier auction has been set aside by the Commissioner on the ground that the auction was not made in accordance with the rules and now fresh auction is to be held on the

direction of the Commissioner, if the petitioner deposits the entire due amount including the recovery charges and interest within a period of one month from today, the property in question shall not be auctioned.

The respondent No.5 has not challenged the order of Commissioner, whereby the auction was set aside, which was made in favour of respondent No.5. However, it is provided that the auction money of the respondent No.5 shall be refunded to him within a period of 30 days from the date of deposit made by the petitioner.

With the aforesaid direction the writ petition is disposed of finally.

Dated: 31-12-2010

(B.S. Verma, J.)

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