

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Special Appeal No. 93 of 2011

M/s Astral Energy Systems Pvt. Ltd.,
Hardwar.

..... Appellant

Versus

State of Uttarakhand and others Respondents

Present: Mr. Manoj Tiwari, Senior Advocate assisted by Mr. Alok Mehra, Advocate for the appellant.
Mr. Vinay Kumar, Standing Counsel for the State/
respondent No.1.
Mr. L.P. Naithani, Senior Advocate assisted by Mr. Vipul Sharma, Advocate for respondent Nos. 2 to 4.

Coram : **Hon'ble Barin Ghosh, Chief Justice**
Hon'ble Serves Kumar Gupta, Judge

Date of Decision: 27th May, 2011

Barin Ghosh, C.J. (Oral)

There is no provision in the Transfer of Property Act for cancellation of a lease. There may be forfeiture of a lease, there may be expiry of a lease, there may be notice to quit of a lessee etc. In the event, the subject is covered by provisions contained in the Transfer of Property Act, then, of course, the matter is required to be sorted out by filing a suit, inasmuch as, in order to establish that the lease has come to an end by reason of the provisions of the Transfer of Property Act disputed questions of fact are required to be gone in. In the instant case, it has not yet come on record that there was either forfeiture of the lease or notice to quit or expiry of the lease as are the provisions contained in the Transfer of Property Act. On the contrary, it appears that the lease was purported to be cancelled. Whether the cancellation was or was not permissible in terms of the laws made by the SIDCUL, is definitely a subject matter of judicial review.

2. We, accordingly, allow the appeal, set aside the judgment and order under appeal and remit the matter back to the writ Court once again with a direction upon the respondents to file their counter affidavit(s) to the writ petition within a period of two weeks from today. Rejoinder affidavit(s) thereto be filed within one week thereafter. List the matter before the writ Court subsequent thereto.

(Serves Kumar Gupta, J.)
27.5.2011

(Barin Ghosh, C.J.)
27.05.2011

P. Singh