

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Writ Petition (MS) No. 2994 of 2013**

Swami Guru Prasad Shishya Swami Janardan..... Petitioner

Versus

State of Uttarakhand. .... Respondent.

Mr. Sharad Sharma, Senior Advocate, assisted by Ms. Vandana Singh, Advocate for the petitioner.

Mr. I.P. Kohli, Standing Counsel for the State of Uttarakhand / respondent.

**Hon'ble B.S. Verma, J.**

By means of this writ petition, petitioner has sought a writ in the nature of certiorari for quashing the order dated 24.12.2013, whereby the Application for granting ex-parte injunction has been rejected by the court.

2. Petitioner filed a suit, which was registered as Suit No. 1 of 2007, against cancellation of lease vide order dated 10.07.2001 and for declaring order of the Collector dated 30.04.2003, directing to take over possession, as null and void. In the said suit, the trial court directed the parties to maintain status quo. Against the said order of status quo, the respondent State preferred an appeal, which was allowed and the order of status quo was set aside. Therefore, feeling aggrieved, petitioner preferred a writ petition, which was registered as WPMS No. 1733 of 2010, before this Court. This Court, on 05.10.2010, directed that the petitioner shall not be evicted from the land in question and also restrained the petitioner from alienating or changing the nature of the land. The said interim protection, granted by this Court, remained in operation during the pendency of the suit. On 09.12.2013, the said suit was dismissed. Being aggrieved thereby, petitioner preferred a civil appeal before the learned District Judge, registered as Civil Appeal No. 38 of 2013. In that, an application was filed by the petitioner praying for grant of ex-parte injunction. The learned District Judge, Tehri Garhwal, vide order dated 24.12.2013, refused to grant ex-parte injunction. Hence, this writ petition has been filed by the petitioner.

3. Learned Senior Advocate appearing on behalf of the petitioner contended that the lease was renewed by the State in favour of the petitioner till 2023 and, during the pendency of the suit, there was a stay in favour of the petitioner.

4. Since the opposite party is State, which is always represented by District Government Counsel (Civil), therefore, it will be appropriate for the learned District Judge to hear the District Government Counsel (Civil) on behalf of the State and to pass a final order on the Application of the petitioner after hearing both the parties, i.e. the petitioner and the respondent State. Therefore, the learned District Judge is directed to decide the Application, made by the petitioner in Civil Appeal No. 38 of 2013, finally as expeditiously as possible after hearing both the parties. Till then, status quo, as on today, regarding possession shall be maintained by the parties.

5. With the above directions, the writ petition is disposed of.

**(B.S. Verma, J.)**  
31.12.2013

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