

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (M/S) No. 1851 of 2018

Sardar Gurdeep Singh

.....Petitioner

Versus

District Magistrate, Dehradun & another

.....Respondents

Present:- Mr. Bhupesh Kandpal, Advocate for the petitioner.
Mr. Yogesh Pandey, Additional CSC for the State/respondents.

Hon'ble Sudhanshu Dhulia, J. (Oral)

The petitioner is aggrieved by the order dated 14.09.2017, by which his representation has been rejected by the Executive Engineer, Provincial Division, Dehradun. The representation was filed by the petitioner in pursuance to an order dated 29.08.2017 passed by this Court in WPMS No.2175 of 2017 in the earlier round of litigation. The said writ petition was filed seeking relief against the proposed demolition of his boundary wall of the premises of the petitioner which is situated on Haridwar Road, Dehradun. The said writ petition was disposed of by this Court directing the respondent authorities to decide the representation of the petitioner by a speaking order. After hearing all concerned, the Executive Engineer, Public Works Department came to the conclusion that the petitioner has encroached upon the public property and therefore the representation of the petitioner has been rejected.

2. The petitioner contends that he had purchased the property from the erstwhile owners who had got this property in their share after filing a partition suit which was filed way back in the year 1964. Petitioner is in the possession

of the same and it has always been considered to be his property. It has further been argued by the learned counsel for the petitioner that the Public Works Department has not made the proper measurement, inasmuch as, there is difference in measurement by certain feet or inches.

3. Learned State Counsel Mr. Yogesh Pandey submits that the boundary wall of the petitioner which is on a commercial place encroaches upon the public land and this determination has been made by the respondent authorities after hearing the petitioner at length in pursuance of this Court's order and after carrying out the measurement at the spot.

4. This Court has perused the impugned order dated 14.09.2017. This Court finds no anomaly in the impugned order which is a well considered order.

5. In view of the above, the writ petition fails and it is hereby dismissed in limine.

6. As regards other aspects as to whether the configuration or measurement has been done correctly or not, this cannot be the subject matter of a writ petition under Article 226 of the Constitution of India. Moreover, appreciation of the same would involve appreciation of disputed questions of facts, which cannot be gone into by this Court in a writ petition.

(Sudhanshu Dhulia, J.)

29.06.2018

Ankit/