

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (M/S) No. 1571 of 2023

Zeeshan Khan and anotherPetitioners

Versus

State of Uttarakhand and othersRespondents

Present:-

Mr. Narendra Bali, Advocate for the petitioners.
Mr. C.S. Rawat, Chief Standing Counsel with T.S.
Phartiyal, Additional Chief Standing Counsel and Mr.
Ghan Shyam Joshi, Brief Holder for the State of
Uttarakhand/respondent nos.1, 5 and 6.
Mr. Vipul Sharma, Advocate for respondent no.2.

Hon'ble Ravindra Maithani, J. (Oral)

The challenge in this petition is made to a notice dated 24.05.2023, issued by the respondent no.3, The Additional Chief Officer of Zila Panchayat Nainital, by which, the petitioners have been required to remove their possession from the encroached land along with the articles; otherwise it shall be removed at the cost of the petitioners.

2. Heard learned counsel for the parties and perused the record.

3. Learned counsel for the petitioners would submit that the father of the petitioners was granted a lease of the land in the year 1967 for three years, but the

petitioners have been paying rent continuously. He would submit that on 13.12.2001, a notice was given to the mother of the petitioners to get the lease renewed and pay the arrears of the rent or else the rent would be recovered and she could be evicted.

4. The Court wanted to know, as to when and how the mother of the petitioners deposited rent pursuant to the notice dated 13.12.2001 and how did she get the lease renewed?

5. It is submitted that in the year 2019, the petitioners applied for renewal of the lease.

6. The petitioners' father was granted a lease for a definite period, which has already expired. Admittedly, the lease has never been renewed extended. It has not been shown that pursuant to the notice dated 13.12.2001 ever the mother of the petitioners applied for renewal of lease or ever deposited the arrears of rent. What are the other facts and material that may not be examined in this petition. This Court cannot determine the rights of the petitioners in this petition. It is not the case of the petitioners that the land, on which, they are on possession has been given to them on lease or the lease

was ever extended after its expiry. The petitioners are always free to seek remedy from the civil court to establish their rights, but as stated, those disputed rights may not be examined in this writ petition. Therefore, there is no reason to entertain this petition. Accordingly, the petition deserves to be dismissed at the stage of admission itself.

7. The petition is dismissed *in limine*.

(Ravindra Maithani, J.)
26.05.2023

Sanjay