

(2024) 10 UK CK 0031

Uttarakhand High Court

Case No: Writ Petition Miscellaneous Single No. 2778 Of 2024

Nagar Nigam Dehradun

APPELLANT

Vs

Rashidan & Others

RESPONDENT

Date of Decision: Oct. 8, 2024

Hon'ble Judges: Pankaj Purohit, J

Bench: Single Bench

Advocate: Ashish Joshi, Y.C. Tiwari

Final Decision: Dismissed

Judgement

Pankaj Purohit, J

1. Heard learned counsel for the parties.

2. By means of this writ petition, petitioner has prayed to direct the Fourth Additional Civil Judge (Jr. Div.) Dehradun to keep in abeyance the

proceedings of Execution Case No.298 of 2018 (96/2020) ~ Rashidhan and others v. Nagar Nigam and others™ till a decision is made in Review

Application (MCC 461 of 2018) filed by petitioner in Second Appeal No.61 of 2012.

3. The prayer made by the petitioner in the writ petition is completely untenable in the eyes of law which cannot be granted for the reasons given

hereinbelow.

4. Facts shorn off unnecessary details are that respondents filed O.S. No.39 of 2003 seeking perpetual injunction against Nagar Nigam, Dehradun.

The said suit was decreed by First Additional Civil Judge (J.D.) by judgment dated 30.10.2010 and counterclaim of Waqf was dismissed. Petitioner as

well as Waqf Vikas Nigam went in appeals against the said judgment dated 30.10.2010 which were decided by Additional District Judge on

07.04.2012 thereby partly allowing the appeal. Challenging the said judgment, Second Appeal No.61 of 2012 was preferred by petitioner-Nagar Nigam

whereas Second Appeal Nos.67 and 70 both of 2012 were preferred by Waqf Vikas Nigam™ which were decided by common judgment and

order dated 29.12.2017, by Co-ordinate Bench of this Court. Against the said judgment, review petition (MCC 461 of 2018) was filed by the petitioner

which is pending before this Court.

5. Instead of filing an application to expedite the hearing of review application, prayer for stay of execution proceedings has been made in this petition.

6. The said prayer made by the petitioner is not tenable at all. The petition is liable to be and is dismissed at the threshold itself. However, it shall be

open to the petitioner to request for early decision of the review application (MCC 461 of 2018) filed in Second Appeal No.61 of 2012, as mentioned

hereinabove.

7. Pending application, if any, stands disposed of.