

(2024) 10 UK CK 0120

Uttarakhand High Court

Case No: Writ Petition Miscellaneous Single No. 2912 Of 2024

Umed Singh

APPELLANT

Vs

Mussoorie Dehradun
Development Authority And
Others

RESPONDENT

Date of Decision: Oct. 23, 2024

Acts Referred:

- Uttarakhand Urban Planning And Development Act, 1973 - Section 27(4)

Hon'ble Judges: Pankaj Purohit, J

Bench: Single Bench

Advocate: Rajendra Dobhal, Bhupendra Singh Bora, Shubhang Dobhal, Rahul Consul

Final Decision: Disposed Of

Judgement

Pankaj Purohit, J

1. Heard learned counsel for the parties.
2. The petitioner has approached this Court for a direction to the respondents not to demolish the construction of the petitioner over the land bearing area 753 Sq.ft. purchased by him vide a registered sale deed dated 01.03.2023 situated in Srinagar Estate Mussorrie Kempty Road/Chakarata Road, District Dehradun, till the final disposal of the appeal against the order dated 16.10.2024 passed by the respondent No.3 (Annexure No.4).
3. From perusal of the record, it transpires that a huge construction is being raised by the petitioner on the aforesaid land without taking any permission from the respondent-MDDA. The respondent-MDDA issued a show-cause notice to the petitioner on 01.10.2024 calling upon the petitioner to show

cause as to why the construction made by the petitioner be not demolished as it is being raised without any building permission or sanctioning of the map from the respondent-MDDA. The show-cause notice was replied by the petitioner on 14.10.2024 stating therein that the petitioner is not raising any new construction, rather the construction is being made on the old plinth which was pre-existing and a certificate to that effect can be produced by the petitioner after obtaining it from the Nagar Palika Parishad Mussorrie. The said reply of the petitioner does not find favour with the respondent-department and the respondent-department vide order dated 16.10.2024, passed an order to demolish the construction made by the petitioner on the ground that the said area, over which the construction was raised, is notified under the U.P. Private Forest Act 1948 and further, the construction was being raised without any valid permission from the respondent-department. The said order also contained the fact that the construction was being raised by the petitioner after breaking upon the seal put by the respondent development authority-MDDA vide order dated 17.11.2023.

4. Feeling aggrieved by the impugned order dated 16.10.2024, the petitioner preferred an appeal on 19.10.2024 under Section 27(4) of the Uttarakhand Urban Planning and Development Act, 1973 before the Chairman MDDA/Commissioner Garhwal Mandal, which is still pending for disposal.

5. Now, the petitioner is before this Court seeking protection against the demolition only to this extent that till the appeal filed by the petitioner is disposed of, the demolition order should not be carried out by the respondent-MDDA.

6. It is contended by learned senior counsel for the petitioner that when the appeal was filed on 19.10.2024, an application for stay of the order dated 16.10.2024 has also been filed, but, instead of passing any order on the said application, according to the information of learned senior counsel, the date was fixed for 28.10.2024.

7. An innocuous prayer has been made by the learned senior counsel for the petitioner that if the learned Chairman MDDA/Commissioner Garhwal Mandal-Appellate Authority is directed to decide the interim relief application of the petitioner in the aforesaid appeal within a stipulated period, the ends of justice would be met.

8. There is no opposition from the side of the respondent Nos.1 & 3-MDDA, if such a relief is granted to the petitioner and a direction is issued to

learned Chairman MDDA/Commissioner Garhwal Mandal-Appellate Authority to decide the interim relief application of the petitioner in the aforesaid

appeal against the impugned order dated 16.10.2024, which is still pending consideration.

9. Accordingly, the writ petition is disposed of finally. The learned Chairman MDDA/Commissioner Garhwal Mandal-Appellate Authority is directed

to decide the interim relief application of the petitioner filed in the aforesaid appeal dated 19.10.2024 along with appeal filed against the impugned

order dated 16.10.2024, as early as possible but not later than 15 days from today.

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

11. Let a certified copy of this order be supplied to learned counsel for the parties today itself, as per Rules.