
(2025) 12 UK CK 0039

Uttarakhand HC

Case No: Writ Petition (M/S) No. 1310 Of 2023

Darshan Lal Kothari

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision: Dec. 8, 2025

Acts Referred:

- Constitution Of India, 1950 - Article 226

Hon'ble Judges: Manoj Kumar Tiwari, J

Bench: Single Bench

Advocate: Vaibhav Trivedi, Vandana Singh, Suyash Pant

Final Decision: Disposed Of

Judgement

Manoj Kumar Tiwari, J

1. This writ petition was dismissed for non-prosecution vide order dated 31.10.2025. Today, the matter is listed on restoration application (MCC/5/2025). For the reasons indicated in the restoration application, the same is allowed. Order dated 31.10.2025 is recalled and the writ petition is restored to its original number.

2. According to petitioner, State Public Works Department constructed link road over his land without initiating acquisition proceedings. By means of this writ petition, petitioner has sought the following reliefs:

“(i) Issue a writ, order or direction in the nature of mandamus directing the respondents to pay compensation to the petitioner as per market value of the land along with panel interest at the rate of 12% per annum from the date of its due till the date of payment in respect of the property measuring 950 square meters situated Khasra Khatauni No. 00054 (Fasli 1420-1425, Khasra No, 121 Kh) measuring 2695 hectare situated at Mauja Asthal Pargana Parvadoon Tehsil and District Dehradun acquired by the State of Uttarakhand. (Contained as Annexure No. 2 to this writ petition).

(ii) To direct the respondents to produce/supply the details of market value of the land/circle rate of the property in question along with rule/circular on the subject.

(iii) To award compensation for mental agony and harassment suffered by the petitioner.”

3. Learned State Counsel submits that the road was constructed after taking consent from the concerned Gram Sabha, however it appears that signature of the petitioner was missing from the agenda of the proposal. He further submits that even though the Public Works Department determined the amount payable as compensation to the petitioner, however petitioner is disputing the said amount and he is claiming that he is entitled to more amount. Learned State Counsel has drawn attention of this Court to the averment made in para 7 and 12 of the counter affidavit filed by Mr. Shyam Singh, Joint Secretary, Public Works Department, Dehradun, which are extracted below:

“7. That as per the decision of the Hon'ble High Court dated 27.04.2019, for Khatauni No. 0054 Khasra No. 121 B, area 950 square meter land of Mr Darshanlal Kothari. Joint Secretary, Public Works Department, Uttarakhand Government was nominated as inquiry officer to examine the records. On examination it was found that the consent letter (bearing signatures of 20 villagers) was given by the Gram Sabha for the construction of the advanced motor road but signature of Darshanlal Kothari was not taken, there was a discrepancy in the consent given by Mr. Kothari for the construction of the said road. There is no record available with the department which clearly shows that the construction work has been done by acquiring the land of Shri Darshanlal Kothari without his consent which is also mentioned in Shri Kothari's letter dated 23.10.2017. In pursuance of the order passed by the Hon'ble High Court dated 27.04.2019, an estimate of compensation amount of Rs 1,06,18,40000 was prepared. If the consent of Shri Kothari had been taken by the departmental officers at the time of acquisition of the land, then the compensation for Kothari's land would have been determined as per the rates fixed for compensation (the rate at which compensation has been given to other landowners) neither such situation would have arisen nor the department be liable for the said amount of compensation.

12. That in reply to the contents of para 5 of the writ petition, it is submitted that the land of the petitioner has been acquired on mutual consent, as such it was not duly acquired under the Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Further, it is also to be mentioned that in the light of the direction dated 27.04.2019 passed by the Hon'ble Court vide Government Office Memorandum No. 2446/111 dated 11.07.2019 Mr. S.S. Tolia, Joint Secretary, PWD, Uttarakhand Government was nominated as the investigating officer. Mr. R.C. Sharma, Special Officer to the Honorable Chief Minister Uttarakhand, Dehradun was instructed to cooperate in the investigation. True copy of the office memorandum dated 11.07.2019 is being filed herewith and marked as Annexure No.CA-7 to this affidavit.

It is further to be mentioned that in compliance of the order dated 27.04.2019 passed by the Hon'ble Court and as per the Act 2013, assessment the land was done as per the circle rate of Solaceum. Following proposal was sent for approval by the Executive Engineer, Temporary

1. Area acquired for motor road	816.80 square meters
2. Circle rate determined by Collector dated 12.01.2018	Rs. 6500/ per m2
3.3. Market Price in case of urban area 1 X1	Rs. 5309200/

4. 100 percent molasses under Section 30 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 - Rs. 5309200/per m2

Therefore, the total amount of compensation payable- Rs. 10618400/

Registry fee 2 percent- Rs. 212368/

Other fees Rs. 10000/

Total Rs. 1,08,40,768/ only

True copy of the letter which shows the calculation of area is being filed herewith and marked as Annexure No.CA-8 to this affidavit,

In view of the letter no. 81/25 Budget (Compensation Payment RRO)/2019-20 dated 09.10.2019 and as per the financial management system IFMS approved in the state from 01.04.2019, a total amount of Rs 2,83,06,932/- was allocated for payment of damage compensation.

True copy of the letter dated 09.10.2019 is being filed herewith and marked as Annexure No.CA-9 to this affidavit.

It is further to be mentioned that, Executive Engineer, Temporary Division, Public Works Department, Rishikesh wrote to the petitioner through various letters to get his land demarcated and to make the related original records available in the division. But following request was made by petitioner to District Magistrate Dehradun through his representation dated 12.11.2018 to the District Magistrate Dehradun and to the Executive Engineer Temporary Division, PWD, Rishikesh:

S. No.	Description	Rate	Total Ammount
1	Cost of 950 sq. meter acquires land	@ 800/- per sq. meter	Rs. 76,00,000/-

2	Cost of 02 trees	@ Rs. 2,50,000/-	Rs. 5,00,000/-
3	Solatum	Solatum	81,00,000/-
4	Interest	@ 18% per annum for 5 tears	Rs. 54,72,000/-
	Grand Total		2.16.72.000/-

In relation to the above calculation, it has to be mentioned before the Honorable Court that the petitioner has calculated the amount for 950 square meters @ Rs. 8000/-per square meter, whereas, In compliance with the decision dated 27.04.2019 passed by the Hon'ble Court in Writ Petition No. 850/MS/2019 of as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 is calculated land of the petitioner on the total area of 816.80 square meters. Thus, as per the calculations done by the concerned section, funds were allocated vide letter dated 09.10.2019."

4. The relief as claimed by the petitioner cannot be granted in a writ petition. Adjudication as regards market value of the land cannot be made in writ proceedings under Article 226 of the Constitution, as it would involve adjudication of disputed questions of fact. Writ petition is, accordingly, disposed of with liberty to the petitioner to approach the competent authority under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for determination of compensation. If petitioner makes application before the competent authority within four weeks from today, competent authority shall examine the matter and pass appropriate order, as per law, within nine months thereafter.

5. It goes without saying that all stakeholders including State Public Works Department shall be given reasonable opportunity of hearing before taking any decision in the matter.