

(2018) 11 UK CK 0223

Uttarakhand High Court

Case No: Contempt Petition No. 888 Of 2018

Harish Chandra
Agarwal & Another

APPELLANT

Vs

Vivek Rai

RESPONDENT

Date of Decision: Nov. 26, 2018

Hon'ble Judges: Manoj K. Tiwari, J

Bench: Single Bench

Advocate: Neeraj Garg

Final Decision: Disposed Off

Judgement

Manoj K. Tiwari, J.

1. Petitioners filed WPMS No. 2387 of 2015 before this Court challenging the order dated 07.07.2015 passed by Assistant Collector, Almora, whereby

petitionersâ€™ claim for regularization of their possession over Government land was rejected. Petitioners had also sought a direction to the

authorities to consider their claim on merits in the light of Government order dated 08.03.1985. The said writ petition was allowed by learned Single

Judge of this Court with a direction to the Competent Authority to consider petitionersâ€™ case in view of the recommendation made by the Tehsildar

and the Government Order dated 08.03.1985.

2. It transpires that a Public Interest Litigation was also filed, being WPPIL No. 79 of 2018, wherein the question of applicability of Government Order

dated 08.03.1985 to hil districts of State of Uttarakhand was raised. The said WPPIL was allowed by Division Bench of this Court vide judgment

dated 17.08.2018. Relevant paragraphs of the said judgments are extracted below:-

23. Accordingly, the writ petition is allowed. The respondent-State Government is directed to enforce the Government Order dated 8.3.1985 in

letter and spirit qua Non-Z.A. land in all the hilly areas of the State of Uttarakhand by issuing the Pattas to farmers under the Government Grants Act, 1895, within six months from today.

24. The Secretary (Revenue) to the State of Uttarakhand is directed to constitute a Committee comprising of all District Magistrate of the Hill

Districts of the State as well as the Director (Agriculture) to implement the Government Order dated 8.3.1985.

3. It is the contention of the petitioners that the Sub-Divisional Magistrate, Sadar, Almora has passed an order on 8.10.2018 stating that since this

Court has not fixed any time limit in the order passed in WPMS No. 2387 of 2015, therefore, petitioners' claim shall be decided only when

procedure for deciding claim of the persons in terms of the judgment rendered in WPIL No. 79 of 2018 is laid down. Since both the judgments

referred to by Sub-Divisional Magistrate, Almora in his order dated 08.10.2018 are on the same subject i.e. applicability of Government Order dated

08.03.1985 to hill district, therefore, in the opinion of this Court, it cannot be said that the Sub-Divisional Magistrate, Almora has willfully and

deliberately violated the order of this Court passed in WPMS No. 2387 of 2015.

4. Having regard to the direction issued by the Division Bench of this Court in WPIL No. 79 of 2018, this Court hopes and expects that procedure

for deciding claim of persons shall be laid down as early as possible, preferably within six months from today. Assistant Collector, Almora shall

thereafter examine claim of the petitioners within three months from the date procedure is laid down by the Competent Authority pursuant to judgment

rendered in WPIL No. 79 of 2018.

5. With the aforesaid observation, the contempt petition is disposed of with liberty reserved to the petitioners to file fresh contempt petition, if needed.