



**HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Writ Petition Misc. Single No. 2608 of 2024**

Shravan Kumar and another --Petitioners

**Versus**

State Of Uttarakhand and another --Respondents

**Presence:-**

*Mr. Ajeet Kumar Yadav, learned counsel for petitioners.*

*Mr. Yogesh Chandra Tewari and Mr. Sudhir Nailwal, learned Standing Counsel for the State of Uttarakhand/respondents.*

**Hon'ble Pankaj Purohit, J. (Oral)**

Heard learned counsel for the parties.

**2.** By means of this writ petition, petitioners have put to challenge the order dated 30.08.2024 (Annexure No.1) passed by respondent No.2- Prescribed Authority/Collector, District Udham Singh Nagar in Case No.51/02/2023-24 *State of Uttarakhand Vs. Krishna Bihari Agarwal and Others*, whereby, the land of the petitioners purchased by them through sale deed from one of the respondents to the proceedings-Jagmandar Das Gupta, way back in the year 2006-07, was declared surplus.



**3.** It is contended by learned counsel for the petitioners that the petitioners have purchased the aforesaid land which is in the share of Jagmandar Das Gupta by a registered sale deed in 2006-07 and they are in possession and cultivation of the said land since then. The proceeding under the UP Imposition of Ceiling on Land Holdings Act, 1960 (hereinafter to be referred to as 'the Act, 1960') was initiated and the land was determined surplus under Section 11(1) of the Act, 1960.

**4.** It is further contended by learned counsel for the petitioners that the petitioners have never been issued show cause notice under Section 10 (2) of the Act, 1960, while passing the impugned order.

**5.** Per contra, learned State Counsel made a preliminary objection in the matter and submits that the order passed under Section 11(1) of the Act, 1960 can be set aside on showing sufficient cause by any of the applicants by making an application within 30 days from the date of order passed under Section 11(1) of the Act, 1960 and instead of straightway coming to the writ jurisdiction, the petitioner could have moved such an application to the Prescribed Authority/Collector under Section 11(2) of the Act, 1960.

**6.** In this view of the matter, the writ petition is disposed of and the petitioners are given liberty to move such an application under Section 11(2) of the Act, 1960 to the respondent No.2-Prescribed



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Authority/Collector, District Udham Singh Nagar, within a prescribed period under Section 11(2) of the Act, 1960 i.e. 30 days. If such an application is moved by the petitioners, the respondent No.2 shall entertain that application, as per Law.

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

**(Pankaj Purohit, J.)**

27.09.2024

PN