

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL****Writ Petition No. 93 of 2014 (M/S)**

Yukti Construction Pvt. Ltd. .....Petitioner  
Vs.  
State of Uttarakhand and others .....Respondents

Mr. Siddhartha Sah, Advocate for the petitioner.  
Mr. Pankaj Purohit, Dy. Advocate General for the State.

**Hon'ble Lok Pal Singh, J.**

Heard learned counsel for the parties at length.

2. Civil miscellaneous application no. 4636 of 2015 had been filed by the petitioner with a prayer to appoint an Advocate Commissioner inasmuch as, the respondent plead acquisition of different pieces of land but they are uncertain about the piece of the land of the petitioner. It was imperative to appoint an Advocate Commissioner for effective adjudication of the issues raised in the writ petition. The Advocate Commissioner will have to (a) visit the site, conduct joint inspection of the site along with the officials of the parties (b) conduct appraisal of all documents as produced by the parties and (c) ascertain the exact location of the piece of land in question.

3. In civil misc. application no. 4301 of 2015, it is contended that the petitioner had sent letters of request to three Hon'ble retired judges, namely, Mr. Justice K.D. Shahi (Rtd.), Mr. Justice Ram Avtar Singh (Rtd) and Mr. Justice Bharose Lal (Rtd.). In response of the letters of the request, all the three Judges have accorded their consent. Learned Single Judge of this Court appointed Mr. Bharose Lal, R/o 489, Satya Vihar, Mandir Marg, Vijay Park, Dehradun as an Advocate Commissioner and



directed the petitioner to pay remuneration of Rs. 1 lakh to the Advocate Commissioner who will submit his report within a period of four months.

4. Learned counsel for the petitioner has placed reliance on the report submitted by Mr. Bharose Lal, Chairman (Rtd.) Public Service Tribunal, Uttarakhand. A perusal of record would reveal that Mr. Deepak Dhingra, Advocate for the petitioner is himself is an Advocate and is a partner in Law linkers' & Co., and has sent letters of request to the three Hon'ble retired judges, namely, Mr. Justice K.D. Shahi (Rtd.), Mr. Justice Ram Avtar Singh (Rtd) and Mr. Justice Bharose Lal (Rtd.) as also to Mr. Justice S.K. Jain (Rtd.). Mr. Justice K.D. Shahi (Rtd.), Mr. Justice Ram Avtar Singh (Rtd) and Mr. Justice Bharose Lal (Rtd.) submitted their consent to be the Advocate Commissioner. Mr. Bharose Lal had been appointed an Advocate Commissioner by this Court on the pretext that he will conduct survey and submit the report in the matter. The order dated 28.03.2016, passed by this Court would reveal that when the consent of retired Justice K.D. Shahi and Justice Ram AVtar Singh (Rtd.) was there and without appointing them as Commissioner, Mr. Bharose Lal was appointed as Advocate Commissioner to conduct the survey. Mr. Bharose Lal is not a practicing Advocate. The Advocate Commissioner could be appointed from the list of the practicing Advocates only. However, this Court could appoint any independent person to be Court Commissioner and not the Advocate Commissioner.



5. Since, it has been projected before this Court that Mr. Bharose Lal is a retired justice of the High Court and on the submission of the learned counsel for the petitioner Mr. Deepak Dhingra, Mr. Bharose Lal, Chairman (Rtd.) Public Service Tribunal, Uttarakhand was appointed an Advocate Commissioner.

6. Application no. 4636 of 2015 was got prepared on 18.04.2015, as appeared from the affidavit of Mr. S.S. Yadav, authorized signatory of the petitioner company and filed before this Court on 27.04.2015. Thereafter, civil misc. application no. 4301 of 2015 was filed. Counter affidavits to the applications, filed by the petitioner, were also filed. The counsel for the petitioner concealed this fact from the learned Judge and learned Standing Counsel also did not disclose this fact to the learned Judge and considering the fact that application has not been opposed, the order dated 28.03.2016 was passed whereby Mr. Bharose Lal, Chairman (Rtd.) Public Service Tribunal, Uttarakhand was appointed an Advocate Commissioner.

7. Mr. Siddhartha Sah, Advocate would submit that Mr. Deepak Dhingra, Advocate is in the partnership of Law Linker's and Co.

8. It seems to this Court that Mr. Deepak Dhingra, Advocate in a clandestine manner sent letters of request to Mr. Justice K.D. Shahi (Rtd.), Mr. Justice Ram Avtar Singh (Rtd), Mr. Bharose Lal and Mr. Justice S.K. Jain (Rtd.) and projected before this Court that Mr. Bharose Lal is the retired Judge of the High Court and the



petitioner succeeded in obtaining the order dated 28.03.2016 and as, Mr. Bharose Lal, Chairman (Rtd.) Public Service Tribunal, Uttarakhand was a man of their choice, they succeeded to get a favourable report from him. State did not file any objection to this. The matter pertains to a land situated as mentioned in notification under sections 4 and 6 of the Land Acquisition Act.

9. Mr. S.S. Yadav, Authorized signatory of the petitioner company, who has filed the affidavits in support of the applications and learned counsel for the petitioner Mr. Deepak Dhingra argued the matter on 28.03.2016, as appears from the order sheet, has played fraud upon the Court by obtaining the order dated 28.03.2016 in their favour. Mr Deepak Dhingra, Advocate has not disclosed that being an Advocate for the petitioner, he sent the letters of request in the name of his partnership company, namely, Law Linker's and Co.

10. Mr. S.S. Yadav, and Mr. Deepak Dhingra, Advocate shall remain present in person before this Court on 06.12.2018. Mr. S.S. Yadav shall explain why he has filed such an applications, supported by affidavits, projecting that all the three retired judges of the High Court gave the consent to be the Advocate Commissioners in the matter. Similarly Mr. Deepak Dhingra, learned counsel for the petitioner, who has sent letters to the aforesaid four persons, shall explain why he has not disclosed before this Court that he being Advocate for the petitioner and also a partner in the Law Linker's and Co., has made such request on behalf of the petitioner.



11. Mr. S.S. Yadav shall also explain why he has filed such false affidavits and Mr. Deepak Dhingra, Advocate shall explain why he has clandestinely drafted the applications and projected Mr. Bharose Lal as retired Judge of the High Court.

12. List the matter on 06.12.2018.

13. Let copy of the order be supplied to the counsel for the parties today itself, on payment of usual charges.

Parul

**(Lok Pal Singh, J.)**

05.12.2018