

ITEM NO.36

COURT NO.11

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).23406/2008

(From the judgement and order dated 27/06/2008 in
1549/2006 of The HIGH COURT OF UTTARAKHAND AT NAINITAL)

WPMS No.

YOGESH CHANDRA UPRETI

Petitioner(s)

VERSUS

GIRISH KAKKAR & ORS.

Respondent(s)

(With prayer for interim relief and office report)

Date: 13/09/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Dr. Sumant Bharadwaj, Adv.
 Ms. Archana Pathak Dave, Adv.

For Respondent(s) Mr. Abhay Prakash Sahay, Adv.

UPON hearing counsel the Court made the following
O R D E R

perused the record. Heard learned counsel for the parties and

This petition is directed against order dated
27.6.2008 passed by the learned Single Judge of
Uttrakhand High Court whereby he allowed the writ
petition filed by respondent no.1 and set aside the
judgment and order dated 21.7.2006 passed by the
Additional Chief Revenue Commissioner (Circuit Court),
Nainital under Section 331(4) of the U.P. Zamindari
Abolition and Land Reforms Act (for short, "the Act").

A reading of order dated 21.7.2006 shows that

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the Additional Chief Revenue Commissioner allowed the
second appeal preferred by the petitioner without
framing any question of law much less substantial
question of law. This was in clear violation of
mandate of Section 331(4) of the Act, which reads as
under:

"331(4) A second appeal shall lie on any of
the grounds specified in Section 100 of the
Code of Civil Procedure, 1908 (V of 1908) from
the final order or decree, passed in an appeal
under sub-section (3), to the authority, if
any, mentioned against it in column 6 of the
Schedule aforesaid"

In view of the above, we have no hesitation
to hold that the High Court did not commit any error by

setting aside the order of the Additional Chief Revenue
Commissioner.

The special leave petition is accordingly
dismissed.

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master