



2026:AHC-LKO:36558

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 4166 of 2026

Niwas Colonisers Pvt. Ltd., Lko. Thru. Director
Brijender Yadav

.....Petitioner(s)

Versus

State Of U.P. Thru. Addl. Chief Secy. Revenue,
Lko. And Others

.....Respondent(s)

Counsel for Petitioner(s) : Mohit Mishra

Counsel for Respondent(s) : C.S.C., Mohammad Aslam Khan,
Pankaj Shukla

Court No. - 6

HON'BLE PANKAJ BHATIA, J.

1. Heard learned counsel for the petitioner, learned Standing Counsel for the State respondents and Shri Mohd. Arif Khan, learned Senior Advocate assisted by Shri Mohd. Aslam Khan, learned counsel for respondent No 4.
2. The present petition, highlights the manner in which, an Advocate supposed to be an Officer of the Court has misused his powers to harass the citizens.
3. The facts, in brief, as emerged are that the Respondent No. 4, who claims to be an Advocate presently, practising at Lucknow, and has no concern with the land in question served a legal notice dated 27.11.2025 (Annexure No.1). The notice was addressed to the petitioner stating that it has come to the knowledge of the Advocate himself that certain activities were being carried since long time, over the land in question which was sought to be stopped by the petitioner. It was alleged that the land records pertaining to the land in question were registered with Ceiling Department in Form No.6 and Form 45, Khata No.305. It was alleged that on the basis of some wrong order, the entire land was levelled and some constructions were being carried out and sale of the said land was also being carried out. It was also alleged that on the basis of inspection of certain land records, it was revealed that certain forged orders have been passed and as soon as the certified copies are obtained, legal action shall be taken. It

was also recorded in the notice that on the basis of documents before the Sub Registrar, it was revealed that the properties have been purchased illegally and thereafter mutation carried out, which appears to be suspicious and thus, the petitioner was called upon by the said notice, not to carry out any development activities over the property in question failing which, it was threatened that the legal action shall be taken. The said legal notice was served on 27.11.2025, sent under registered cover on 28.11.2025. The petitioner ignored the said notice.

4. Thereafter the respondent No.4, filed a personal complaint under his name before the District Magistrate. The record produced by the learned Standing Counsel reveals that the respondent No 4 was shown as a plaintiff and petitioner was shown as respondent, State of U.P. was also shown as respondent. In the said complaint, allegations which were similar to the allegations referred to the notice were mentioned, the said complaint was filed under Sections 104 and 105 of the U.P. Revenue Code on 29.01.2026, before the District Magistrate, Lucknow. A copy of the said plaint reveals that the District Magistrate, Lucknow registered this as a case and directions were passed to decide the matter on merits and for disposal, the same was transmitted to ADM (Judicial), Lucknow, wherein Case number was also inscribed. The said order of the Collector does not bear any date.

5. In pursuance to the said direction, the ADM (Judicial), proceeded to pass an order on 10.03.2026, wherein it was stated that in the plaint filed by the respondent No. 4, averments were made with regard to the land in question, and without recording any satisfaction in respect of prima facie case, balance of convenience or irreparable hardship, the petitioner was restrained from selling the land or from raising any constructions until further orders. Further directions were issued that the revenue records be modified and order with regard to selling and raising constructions in respect of the said land be inscribed. The matter was directed to be posted on 25.03.2026 and notices were also issued. The said order is under challenge before this Court. and as well as the entire proceedings are sought to be quashed.

6. The contention of the learned counsel for the petitioner is that for

proceedings under Sections 104 and 105 of The U.P. Revenue Code, the manner of exercise of power is governed by virtue of Rule 103 of the Rule framed under The U.P. Revenue Code known as The U.P. Revenue Code Rules, 2016.

7. While examining the arguments as raised by the learned counsel for the petitioner, it is necessary to quote the Sections 104 and 105 of the U.P. Revenue Code, 2006 along with Rule 103 of the U.P. Revenue Code Rules, 2016 as under:

"Section 104. Transfer in contravention of this Code to be void.- Every Lease or transfer of interest in any holding or part thereof made by a bhumidhar or any asami in contravention of the provisions of this Code shall be void.

Section 105. Consequences of transfer by Bhumidhar in contravention of the Code.-(1) Where transfer of interest in any holding or part made by a Bhumidhar is void under Section 104, the following consequences shall, with effect from the date of such transfer, ensue, namely:

(a) the subject-matter of such transfer shall vest in the State Government free from all encumbrances;

(b) the tree, crops, wells and other improvements, existing on such holding or part shall vest in the State Government free from all encumbrances;

(c) the interests of the transferor and the transferee in the properties specified in Clauses (a) and (b) shall stand extinguished;

(d) the extinction of interest of the transferor under Clause (c) shall operate to extinguish the interest of any asami holding under him.

[(e) the provisions of this section shall no apply to any lease made under Section 94.]

(2) Where any land or other property has vested in the State Government under sub-section (1) it shall be lawful for the Collector to take over possession of such land and other property, and to direct that any person occupying such land or property be evicted therefrom, and for that purpose, the Collector may use or cause to be used such force as may be necessary and the provisions of Section 59 mutatis mutandis shall apply to such property.

Rule 103. *Transfer in contravention of the provisions of the Code (Section 105).-*

(1) If a bhumidhar or an asami has transferred his interest in any holding or part thereof which is void under Section 104, the Lekhpal shall promptly submit a report to the Sub-Divisional Officer containing particulars specified in Rule 97(1).

(2) On receipt of the report of the Lekhpal under sub-rule(1), or on information received otherwise, the Sub-Divisional Officer shall call upon the parties to the transfer to show cause, why action under Section 104 read with Section 105 should not be taken in respect of the land in question.

(3) After hearing the parties and making such inquiries as may be considered necessary, if the Sub-Divisional Officer is satisfied that the transfer in question is void under Section 104, he shall declare that:

(a) the subject matter of such transfer shall vest in the State Government;

(b) the trees, crops, well and other improvements existing on the holding or part shall vest in the State Government free from all encumbrances; and

(c) the interests of the transferor as well as of the transferee stood extinguished, from the date of such transfer.

(4) The Sub-Divisional Officer shall direct that the revenue records should be corrected accordingly and where the transfer in contravention of the provisions of the Code relates to a part of the holding, he shall also fix land revenue in respect of the part left with the transferor in accordance with Chapter XI of these Rules.

(5) Every order of the Sub-Divisional Officer under this Rule shall be endorsed to the Samiti for necessary action.

(6) Where any property referred to in Section 105 has vested in the State Government, the Collector may evict any person in unauthorised occupation of such property and deliver possession thereof to the Gram Panchayat concerned."

8. Reliance has been placed upon the judgments of this Court passed in *Writ Petition (C) No18585 of 2023 (Sudheer Kumar Jain vs. State of U.P. and others) decided on 10.08.2023 ; Rakesh Kumar vs. State of U.P. and others decided on 28.02.2012 & reported in 2012 (116) R.D. 69* wherein, the issue of jurisdiction for exercise of power was considered. Similarly, reliance has been placed upon the judgment passed by this court in the case of (*Smt. Meenu Seth vs. State of U.P. and 7 others*) decided on 21.07.2023.

9. Thus, in short, the entire proceedings are sought to be quashed on the ground of lack of jurisdiction. In view of seriousness of the allegations, the records were summoned. The records clearly reveals that the Respondent No. 4 has filed a personal case without disclosing his locus

standi/interest to file the same and the same was done after serving a legal notice. The case was filed before the District Magistrate directly and was registered by means of an undated order and the file was transmitted to the ADM (Judicial), who in turn proceeded to pass an interim order without recording any prima facie satisfaction with regard to the claim of the respondent No. 4 in respect of the infirmities leading to requirement of passing an immediate order.

10. The perusal of the Rules as well as the Sections, clearly reveals that an application for invoking the mandate of Sections 104 and 105 of The U.P. Revenue Code can be initiated only on moving an application before the Sub-Divisional Magistrate concerned.

11. In the present case, Shri Mohd. Arif Khan, learned Senior Advocate tried to defend the respondent No. 4 by arguing that the land in question should have been rightly vested in the State, thus the respondent No.4 had taken the initiative of filing the complaint.

12. Learned Standing Counsel for the State very fairly states that the jurisdiction in terms of Rule 103, vests only with the Sub Divisional Officer and the order impugned was passed after the case was registered by the District Magistrate.

13. Considering the submissions made at the Bar, what transpires from the plain reading of Rule 103 is that where a Bhumidhar or Asami has transferred his interest in any holding which is void under Section 104, the Lekhpal shall submit a report to the Sub Divisional Magistrate containing the particulars specified in Rule 97 (1) Rule 103 (2), mandates that on receiving the report from the Lekhpal, the Sub Divisional Magistrate is bound to call upon the parties to the transfer, to show cause why action may not be taken under Sections 104 or 105 in respect of the land in question and after hearing the parties, orders can be passed by the Sub Divisional Magistrate, after recording the satisfaction, consequential actions are enumerated in Rule 103 (4).

14. In the present case, the District Magistrate, despite being a responsible Officer of the State has entertained the complaint directly at the instance of the Respondent No. 4 without even caring to check as to whether any

jurisdiction was vested in him or not. The ADM (Judicial) before whom the proceedings were transferred without any application of mind and without recording any satisfaction, proceeded to pass an order restraining the petitioner from disposing of the land or raising any constructions. Both the said action of the District Magistrate and ADM (Judicial), clearly *dehors* the law and without any jurisdiction. The petitioner whose name was mutated in revenue records has been harassed by the State authorities, who have acted without any jurisdiction whatsoever. Even the requirements of Rule 103 (2) (3) have not been followed by the District Magistrate or by the ADM (Judicial), this leaves no doubt for this Court to record that the District Magistrate and the ADM have acted without jurisdiction and in a most irresponsible manner and have restrained the petitioner from carrying out the development work without any authority of law and without any application of mind. The respondent No. 4, who claims to be an Advocate and admittedly, has no concern with the land, has also acted in a most irresponsible manner in serving the legal notice, threatening the petitioner and thereafter, instituting the proceeding before an authority, which had no jurisdiction. The respondent No.4 was attempting to browbeat and black-mail the petitioner and with the same intent, had instituted the proceeding before an authority which did not have the jurisdiction and could succeed to derail the development proposed by the petitioner over the land in question.

15. Learned Standing Counsel for the State tried to defend the action of the respondents, to the extent that whenever information is received with regard to the land being misused or being transferred in contravention of the provisions, the State can take action in accordance with law. However, could not defend the manner in which the ADM had passed the order or the District Magistrate having jurisdiction to entertain the same.

16. The contention of the learned Standing Counsel, to the extent that the State is empowered to protect the interest of the State cannot be doubted. However, it is well settled that the same can be done strictly in accordance with law and not based upon the information of strangers. In the present case, the Respondent no. 4, being an Advocate has clearly misused his knowledge and power to harass the petitioner. The District Magistrate, Lucknow has exceeded his jurisdiction in entertaining and

registering a case without having any jurisdiction and the ADM (Judicial) was also present in this Court, has acted without jurisdiction and without any application of mind in passing an order which has resulted into hardship to the petitioner.

17. Thus, in view of the reasons recorded above, the entire proceedings being initiated without jurisdiction are quashed. The order dated 10.03.2026 as well the entire proceedings in Case No.435 of 2026, (Computerized Case No.D202610460000435) under Sections 104, 105 of U.P. Revenue Code, 2006 (R.P. Singh vs. Niwas Colonisers Pvt. Ltd and others) passed by Additional District Magistrate (Judicial Lucknow) are quashed.

18. The respondent No.4 as well as ADM (Judicial) and District Magistrate are saddled with the costs of Rs.20,000/- each for harassing the petitioner to come this Court, to defend his rights which have been violated without any authority of law.

19. The writ petition stands *allowed* in terms of the said order.

20. In case, the respondent No.4 does not pay the costs within a period of one month from today, the District Magistrate shall recover the same from him as arrears of land revenue and shall pay the same to the petitioner.

21. In case, the District Magistrate and the Additional District Magistrate (Judicial) do not deposit the costs with the petitioner, the same shall be treated as contempt of this Court.

22. The said costs shall be paid within a period of six weeks from today from the personal account of the District Magistrate and the ADM (Judicial) and not from the State corpus.

(Pankaj Bhatia,J.)

May 19, 2026

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