



2026:AHC:100389-DB

Reserved on 16.04.2026  
Delivered on 04 .05.2026

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**WRIT - C No. - 4588 of 2025**

M/S Uttam Lifestyle Hotels .....Petitioners(s)  
Private Limited

Versus

State Of U.P. And 3 Others .....Respondents(s)

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Counsel for Petitioners(s) : Abhinav Gaur, Sr. Advocate, Vibhu Rai  
Counsel for Respondent(s) : Ambrish Shukla, Anuj Pratap Singh,  
C.S.C., Swapnil Kumar

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Connected with **WRIT - C No. - 5960 of 2021**

M/S Uttam Life Style .....Petitioners(s)  
Hotels Private Limited

Versus

State Of U.P. And 2 Others .....Respondents(s)

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Counsel for Petitioners(s) : Abhinav Gaur, Anoop Trivedi (Senior  
Adv.), Vibhu Rai  
Counsel for Respondent(s) : Ambrish Shukla, Anuj Pratap Singh,  
C.S.C., Swapnil Kumar

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**Court No. 21**

**HON'BLE MAHESH CHANDRA TRIPATHI, J.  
HON'BLE PRASHANT KUMAR, J.**

1. Heard Shri Vibhu Rai and Shri Abhinav Gaur, learned counsel for the petitioner, Shri Fuzail Ahmad Ansari, learned Standing Counsel for the State respondents and Shri Anurag Khanna, learned Senior Advocate assisted by Shri Ambrish Shukla and Ms. Megha Bansal, learned counsel for the respondent/U.P.S.I.D.A., who has provided valuable assistance.

2. The leading writ petition bearing Writ-C No.4588 of 2025 has been filed for quashing the order dated 23.01.2025 passed by respondent no.4 and for seeking a direction to the respondents to forthwith permit the petitioner's unit situated at Plot No.B-3, Industrial Area Site-IV, Sahibabad, Ghaziabad, to be made functional by issuing a functional certificate.

3. The connected writ petition bearing Writ-C No.5960 of 2021 has been filed for quashing the order dated 29.10.2020 passed by respondent no.3 to the extent that the respondent authority has illegally demanded Rs.86,41,002/- under the headings of lease rent, service tax and time extension charges, and also for quashing the order dated 25.11.2020 passed by respondent no.3.

#### **BRIEF FACTS OF THE CASE**

4. Initially, Plot No.B-3, Industrial Area, Site-IV, Sahibabad, Ghaziabad was allotted to one M/s Parvan Exports Private Limited vide registered lease deed executed on 24.09.1982 by the respondent/Uttar Pradesh State Industrial Development Corporation Limited<sup>1</sup>. The original allottee made an application on 19.06.2008/18.09.2008 requesting that the land allotted to M/s Parvan Exports Private Limited may be transferred to the petitioner's company. The UPSIDC on 13.01.2009 permitted the transfer of plot in question on the payment of transfer charges of Rs.32,49,180/-. The relevant clauses of the permission letter 13.01.2009 are reproduced as under:-

***“8. The transferee will submit a definite time bound program or completion of construction and implementation of project on the aforesaid plot not exceeding two year.***

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*10. Lease period shall be allowed to the transferee for the remaining period from the original allotment.*

*11. "The following fee due as Time Extension Fee (TEF) in case of extension of time beyond 01 year. Time Extension Fee (TEF) shall be charged as per following:-*

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1. UPSIDC

**Time Time Extension Fee(TEF)**

*upto 01 year 5% of the rate of premium prevalent on the date of Allotment*

*upto 02 years 10% of the rate of premium prevalent on the date of Allotment”*

5. After the permission of transfer was granted, transfer levy was paid and the registered lease deed was executed between the UPSIDC and the petitioner on 13.01.2010. Clause 3(e) of this lease deed stipulates as follows:

*“3. (e) That Lessee will at his own cost erect on the demised premises in accordance with the layout plan elevation and design and in a position to be approved in Writing and in a substantial and workman like manner the industrial unit as aforesaid, with all necessary out-houses sewers, drains and other appurtenances according to the local authority's rules and, by-laws in respect of buildings, drains, latrines and connections with sewers and will commence such construction within the period of 3 months and will completely finish the same covering minimum 30% of the allotted area fit for use and start the manufacturing and production within the period of 13 months from the date of these presents or within such extended period of time as may be allowed by the Lessor in writing, in its discretion. The lessor shall charge Time Extension Fee as per prevailing rules for grant of time extension.”*

6. Subsequently, possession of the property in question was handed over to the petitioner on 20.02.2010. After a lapse of 10 months, on 29.12.2010, the petitioner applied for sanction of building plan of the plot in question, whereon UPSIDC vide its letter dated 27.01.2011 replied that the construction was to be completed and the factory had to be started in 13 month. Since the plot was allotted to the petitioner on 13.01.2009 and more than 2 years have passed, hence the building plan cannot be approved unless time extension is granted. Thereafter, on 14.02.2011, the petitioner sought for extension of time for one year for completion of the construction and commencement of the production. On this, the UPSIDC apprised the petitioner company that a lease rent of Rs.27,008/- and time extension fees of Rs.1,85,609/- should be deposited in order to process the application made by the petitioner for extension of time. It seems that the petitioner had deposited the said amount of Rs.2,12,617/- with the UPSIDC on 28.02.2011. Thereafter the petitioner

wrote a letter on 03.03.2011 asking the UPSIDC to process the application for extension of time.

7. It is claimed that although the petitioner had completed all the formalities with regard to the application for extension of time, it was kept pending by the UPSIDC and when no decision was taken, the petitioner sent a reminder on 02.07.2012. On this, the UPSIDC (vide its letter dated 12.07.2012) informed the petitioner that time extension application has been forwarded to the Headquarters and it is only after getting permission from the Headquarters, further action would be taken on the application for extension of time. Again a reminder was sent by the petitioner on 21.09.2012 on which the respondent again replied (on 01.10.2012) stating that once a decision is taken by the Headquarters on the application for extension of time, then only further action would be taken on the approval of the building plan.

8. On 16.09.2015, the petitioner received a letter from UPSIDC stating that since the petitioner has failed to complete the construction and start the production within the stipulated time, hence the alleged breach was directed to be remedied within a period of 30 days, failing which the UPSIDC shall re-enter the said plot or a part thereof and shall forfeit all the rights created under the said lease deed and the money paid to the UPSIDC by virtue of the lease deed would stand forfeited. This letter was replied by the petitioner on the very same day mentioning that the application for extension of time was pending with the Headquarters for the last five years and because of that, the building plan has not been approved and without approval of the same, construction activity could not be undertaken. The petitioner further requested the Headquarters to send approval on application for extension of time so that the building plan can be approved and construction can be carried out.

9. It is claimed that since nothing happened, so the petitioner again sent a reminder on 25.01.2016, but still no decision was taken by the respondent. On 05.02.2018, UPSIDC sent a letter to the petitioner stating that lease deed was executed on 20.02.2010, however, a period of 8

years have passed and still the petitioner has not got the map approved or carried out construction and production, so a further period of seven days was granted to them to give their explanation as to why the allotment may not be canceled. The petitioner on 13.02.2018 gave a written reply pointing out that the application for extension of time is pending with the Headquarters for the last six years, and only after the application for extension of time is allowed, the building plan can be approved and construction could be carried out. Thereafter reminders were sent by the petitioner on 16.03.2020 and 15.09.2020.

10. It was on 29.10.2020, the UPSIDC allowed the application for extension of time and granted extension of one year time subject to payment of Rs.86,41,002.42/- as time extension charges. Thereafter the petitioner vide letter dated 09.11.2020 asked for the break up and also the basis (rule or legal provision) on which this time extension fees has been calculated. Another reminder was sent on 25.11.2020 in which it is stated that time extension application fee had already been deposited on 27.11.2011 and there was no rationale for the respondents to charge such a huge amount towards time extension fees.

11. The UPSIDC again sent a letter to the petitioner on 25.11.2020 and asked the petitioner to complete all formalities within 30 days and the petitioner after depositing time extension charges, may apply for approval of the building plan through online web portal i.e. Nivesh Mitra Portal. Aggrieved by the aforesaid, the petitioner preferred writ petition being Writ-C No.5960 of 2021 challenging the letter dated 29.10.2020 and 25.11.2020, wherein the respondents have asked the petitioner to deposit Rs.86,41,002/- towards time extension fees. The prayer in writ petition bearing Writ-C No.5960 of 2021 are as follows :-

*"I. Issue an appropriate writ order or direction quashing the order dated 29.10.2020 passed by respondent no. 3 to the extent that respondent authority has illegally demanded Rs.86,41,002/- in the name of lease rent, service tax and time extension charges (Annexure No. 21 to this writ petition)*

*II. Issue an appropriate writ order or direction quashing the order dated 25.11.2020 passed by respondent no.3. (Annexure No. 24 to this writ petition)"*

12. In the writ petition, a counter affidavit has been filed by the UPSIDC, wherein it has been stated that as per lease deed, the petitioner was to complete building and start production within a period of two years, however, that period has elapsed. In paragraph 16 of the counter affidavit, it has been stated that Rs.50,11,425/- was charged towards time extension fee upto 11.01.2022 and Rs.34,24,703/- is towards interest on time extension fee on this time. Total charges for extension of time was amounting to a sum of Rs.86,41,002/-. This time extension fee is calculated at 10% upto 01.10.2013 and thereafter from 11.01.2014 and 11.01.2022 at the rate of 15%, as per lease deed and the decision taken by the Board of Directors in its 274<sup>th</sup> meeting dated 30.06.2011, which provided 15% interest on time extension charges after 4 years of allotment. It has further been stated that the intention of the petitioner was not to set up industry but only to hold back premises.

13. Rejoinder affidavit to the aforesaid counter affidavit has been filed wherein contents of paragraph no.16 of the counter affidavit were simply denied.

14. On 28.10.2021, this Court proceeded to pass the following order:

*"Sri Anoop Trivedi, learned Senior Counsel assisted by Sri Abhinav Gaur, for the petitioner; Sri Raghvendra Dwivedi, learned counsel for the State and Sri Swapnil Kumar, learned counsel for respondents 2 and 3.*

*Sri Swapnil Kumar, submits that during the course of the day, he would be filing counter affidavit.*

*List this case in the week commencing 6.12.2021, as fresh.*

*In the meanwhile, petitioner, if so desires, may file rejoinder affidavit.*

*As an interim measure, we direct that the respondents-authorities may not take any coercive action against the petitioner pursuant to the order impugned, provided the petitioner deposits Rs.25.00 lakhs out of the amount claimed by the respondents, i.e. Rs.86,41,002/-.*

*The amount, i.e. Rs.25.00 lakhs, deposited by the petitioner shall be kept in a Fixed Deposit account in a Nationalized Bank and shall not be utilized by either of the parties without permission of Court.*

*This order shall not come in the way of the respondents-authorities to decide the claim of the petitioner for sanctioning of building plan/map, which is stated to be pending since long.”*

15. The UPSIDC in terms of the Court's order took a decision, and rejected the application for approval of building plan after 12 years vide order dated 31.10.2022. A representation was moved by the petitioner on 10.02.2023 and on 14.02.2023. On 22.02.2023 the Regional Manager, UPSIDC apprised the petitioner that though there was an interim order passed by the Court, yet the building plan cannot be approved in view of the opinion given by the General Manager (Law), UPSIDC, which reads as under:

“कृपया उपरोक्त विषयक अपने पत्र दिनांक 10.02.2023 जो इस कार्यालय में दिनांक 14.02.2023 को प्राप्त हुआ है का संदर्भ लेने का कष्ट करें , जिसके माध्यम से उक्त भूखण्ड का भवन मानचित्र स्वीकृत करने का अनुरोध किया गया है।

इस सम्बन्ध में आपको सूचित करना है कि उक्त भूखण्ड का भवन मानचित्र माननीय उच्च न्यायालय इलाहाबाद द्वारा पारित अंतरिम आदेश दिनांक 28.10.2021 के क्रम में निवेश मित्र पोर्टल के माध्यम से दिनांक 26.08.2022 को जमा कराया गया था। इस प्रकरण में माननीय न्यायालय इलाहाबाद द्वारा पारित आदेश के संबंध में इस कार्यालय के पत्र दिनांक 19.10.2022 के द्वारा विधिक राय प्राप्त करने हेतु मुख्यालय प्रेषित किया गया था , जिसपर मुख्यालय ने अपने पत्र दिनांक 21.10.2022 द्वारा महाप्रबन्धक (विधि) ने अपने विधिक राय में प्राधिकरण के नियमानुसार कार्यवाही किये जाने हेतु निर्देशित किया गया। विधिक राय एवं ऑपरेटिंग मैनुयूल-2011 की धारा संख्या 2.17 एवं यूपीसीडा बिल्डिंग बायलॉज-2018 के एनेक्चर-4बी के अनुसार यदि भूखण्ड के विरुद्ध समय विस्तारण आदि के देयता प्रभावी है तो प्राधिकरण के नियमानुसार भवन मानचित्र पर स्वीकृति प्रदान नहीं किया जा सकता। उक्त के आलोक में आप द्वारा प्रस्तुत ऑन लाईन भवन मानचित्र को इस कार्यालय द्वारा ऑन लाईन पत्र दिनांक 31.10.2022 द्वारा अस्वीकृत कर दिया गया।

अतः आपसे अनुरोध है कि इस पत्र की निर्गत तिथि से 15 दिन के अन्दर प्राधिकरण द्वारा मांगी गयी धनराशि ब्याज सहित चालान के माध्यम से इस कार्यालय में जमा कराते हुये भूखण्ड के भवन मानचित्र स्वीकृति हेतु पुनः

ऑन लाईन री-सबमीट करने का कष्ट करें , जिससे कि तदनुसार अग्रिम कार्यवाही किया जाना सम्भव होगा।

भवदीय  
(सी० के० मौर्य)  
क्षेत्रीय प्रबन्धक”

16. Both the orders dated 31.10.2023 and 22.02.2023 were challenged by the petitioner before this Court by means of subsequent writ petition being Writ - C No.9598 of 2023 and this Court on 22.05.2023 passed the following order:

*“1. Heard Sri Anoop Trivedi, learned Senior Counsel assisted by Sri Vibhu Rai and Sri Amit Tandon, learned counsel for the petitioner, Sri Rajeev Singh, learned Standing Counsel for respondent no.1 and Sri Swapnil Kumar, learned counsel for respondent nos. 2, 3 & 4.*

*2. The petitioner has challenged the orders dated 22.2.2023 and 31.10.2022 passed by the fourth respondent, whereby the building plan/map submitted for approval by the petitioner came to be rejected on non-deposit of time extension fee.*

*3. It has been argued by learned counsel for the petitioner that the orders impugned are in the teeth of order passed by a Co-ordinate Bench of this Court on 28.10.2021, wherein it was directed that the respondent-authorities would decide the claim of the petitioner for sanctioning the building plan/map on merits on deposit of Rs. 25,00,000/-.*

*4. It is not in dispute that petitioner has complied with the aforesaid order.*

*5. On being confronted, learned Senior Counsel appearing for the respondent-authority, on instructions, submits that the building plan/map of the petitioner shall be reconsidered afresh without insisting upon deposit of the remaining time extension fee.*

*6. In view thereof, the impugned orders dated 22.2.2023 and 31.10.2022 passed by the fourth respondent are hereby quashed. The writ petition, accordingly, stands allowed. The matter is remanded to the competent respondent-authority to consider the building plan/map submitted by the petitioner.*

*7. Any order passed by the competent respondent-authority shall be subject to the final outcome of Writ C No. 5960 of 2021.”*

17. In view of the order passed by this Court on 22.05.2023, the respondents approved building plan on 13.07.2023 and thereafter the petitioner had constructed the entire building and thereafter on

08.01.2024, the petitioner made an application for issuance of functional certificate. This application has been rejected by the UPSIDC vide order dated 23.01.2025 with the following observations:

“कृपया उपरोक्त विषयक अपने पत्र दिनांक 09-01-2025 के संदर्भ लेने का कष्ट करें, जिसके द्वारा अपने अपने पूर्व में किये गये आनलाईन आवेदन जोकि इकाई को उत्पादकता प्रमाण पत्र निर्गत किये जाने के सम्बन्ध में है। आप द्वारा उपरोक्त पत्र के माध्यम से माननीय उच्च न्यायालय, इलाहाबाद में दायर की गयी रिट याचिका सं० 5960/21 एवं 9598/23 में० उत्तम लाईफ़ स्टार्टल प्रा० लि० बनाम स्टेट आफ यू०पी० व अन्य में माननीय उच्च न्यायालय, इलाहाबाद में पारित आदेश दिनांक 22.05.2023 की प्रति संलग्न करते हुये उक्त भूखण्ड पर कार्यरत इकाई को उत्पादकता प्रमाण पत्र निर्गत करने की कार्यवाही किये जाने का अनुरोध किया गया है।

इस सम्बन्ध में सूचित करना है कि माननीय उच्च न्यायालय इलाहाबाद द्वारा पारित आदेश दिनांक 22.05.2023 में इस कार्यालय द्वारा निर्गत पत्र दिनांक 31.10.2022 एवं 22.02.2023 जिनके द्वारा आपसे समय विस्तारण शुल्क एवं अन्य मदों में देय धनराशि का भुगतान करने के उपरान्त ही भवन मानचित्र स्वीकृत किया जाना संभव होगा, को Quashed किया गया है, एवं भवन मानचित्र स्वीकृत किये जाने हेतु निर्देशित किया गया है, साथ ही यह भी आदेशित किया गया है कि प्रकरण में अन्तिम निर्णय पूर्व रिट याचिका सं० 5960/2021 में पारित अन्तिम निर्णय के अनुसार ही होगा। यहाँ यह भी सूच्य है कि माननीय उच्च न्यायालय, इलाहाबाद ने रिट याचिका सं० 9598/2023 में पारित आदेश दिनांक 22.05.2023 के बिन्दु सं० 07 में स्पष्ट रूप से निम्नवत् आदेश किये गये हैं:-

**"7. Any order passed by the competent respondent authority shall be subject to the final outcome of Writ C. No. 5960 of 2021." |**

आप अवगत है कि उपरोक्त दोनो रिट याचिकायें वर्तमान में माननीय उच्च न्यायालय, इलाहाबाद में विचाराधीन है। उपरोक्त के अतिरिक्त यहाँ यह भी सूच्य है कि उक्त भूखण्ड पर वर्तमान समय तक समय विस्तारण शुल्क, ब्याज एवं अन्य देयों की मद में रू 0 1,47,48,619.00 बकाया है, जिसके सम्बन्ध में अन्तिम निर्णय माननीय उच्च न्यायालय, इलाहाबाद द्वारा दायर रिट याचिका संख्या-5960/2021 में पारित आदेश के तहत किया जाना है।

अतः उपरोक्त तथ्यों को दृष्टिगत रखते हुये आपके उत्पादकता सम्बन्धी प्रमाण पत्र निर्गत किये जाने विषयक अनुरोध पर माननीय उच्च न्यायालय, इलाहाबाद में दायर रिट याचिका संख्या-5960/2021 में पारित अन्तिम आदेश के उपरान्त ही अग्रिम कार्यवाही किया जाना संभव होगा। उपरोक्त के क्रम में

आपके उत्पादकता प्रमाण पत्र निर्गत करने सम्बन्धी आन -लाईन आवेदन निरस्त किया जाता है।

भवदीय,  
(प्रदीप कुमार सत्यार्थी)  
क्षेत्रीय प्रबन्धक”

18. The order dated 23.01.2025 rejecting functional certificate has again been challenged by the petitioner by means of Writ-C No.4588 of 2025, In this writ petition, the petitioner made the following prayer:-

*"I. Issue an appropriate writ order a direction quashing the order dated 23.01.2025 passed by respondent no.4 as contained in Annexure No.28 to this petition.*

*II. Issue an appropriate writ order a direction commanding the respondents concerned to forthwith permit the petitioner company to make the biding situated at Plot No.B-3, Industrial Area, Site-IV, Sahibabad, Ghaziabad to be functional by issuing functional certificate."*

19. In this writ petition, the respondent (UPSIDC) filed a counter affidavit stating that time extension was granted on 29.10.2020 subject to payment of time extension charges and the same has not been paid. It was further stated that since the petitioner was liable to pay time extension charges w.e.f. 13.01.2023 to 12.01.2025 and other charges like, lease rent w.e.f. 01.04.2021 to 31.03.2025, interest on the aforesaid amount as referred in the letter dated 23.01.2025 and the same is not paid, there was no question for issuance of functional certificate. Rejoinder affidavit to the counter affidavit has also been filed.

20. During the course of argument, UPSIDC has placed a letter dated 18.12.2025 before this Court, wherein break-up of the outstanding amount has been given, which reads as follows:

“विषय:-1 रिट याचिका संख्या 4588/2025 मै० उत्तम लाईफस्टाइल होटल्स प्रा० लि० बनाम स्टेट ऑफ यूपी व अन्य जनपद गाजियाबाद।

2. रिट याचिका संख्या 5960/2021 मै० उत्तम लाईफ स्टाइल होटल्स प्रा० लि० बनाम स्टेट ऑफ यूपी व अन्य जनपद गाजियाबाद।

**(भूखण्ड संख्या बी-3 औ०क्षे० साईट-4 साहिबाबाद गाजियाबाद) के संबंध में।**

महोदय,

कृपया उपरोक्त विषयक आपके पत्रांक संख्या 2996/ यूपीसीडा /इला०/ लीगल-4265,3433 दिनांक 16.12.2025 का संदर्भ ग्रहण करने का कष्ट करें, जिसके अन्तर्गत मा० उच्च न्यायालय की सुनवाई दिनांक 16.12.2025 के अन्तर्गत भूखण्ड संख्या बी-3 औ०क्षे० साईट-4 गाजियाबाद के किस-किस मद में वर्तमान तक कितनी बकाया राशि है, की गणना अगली सुनवाई की तिथि दिनांक 19.12.2025 से पूर्व उपलब्ध कराये जाने हेतु निर्देशित किया गया है।

उक्त के संबंध में पत्रावली में उपलब्ध अभिलेखों के अनुसार लेखा विभाग द्वारा उपलब्ध कराई गई भूखण्ड की वर्तमान देयता की गणना निम्नवत है-

1.	Cost of Plot with Intt.	Full Paid
2.	Lease Rent Balance 01-04-2013 to 31-03-2026	2,70,080.00
3.	GST 18% On Lease Rent	48,615.00
4.	Maintenance Charge Balance Upto 01-04-2025 to 31-03-2026 (7716.55 sq mt x Rs.38 per sq mtr/year)	2,93,229.00
5.	Time Extension Fees as applicable from dated 13-01-2012 to Date of Start of Production 12-01-2025	70,53,116.00
6.	Intt. on Time Extension Fees from 13-01-2012 to 31-12-2025	82,76,405.00
	Total	1,59,41,445.00

अतः उपरोक्त देयता की गणना को मा० उच्च न्यायालय के समक्ष उपलब्ध कराये जाने हेतु प्रेषित है।'

भवदीय

(प्रदीप कुमार सत्यार्थी)  
क्षेत्रीय प्रबन्धक"

**ARGUMENTS OF LEARNED COUNSEL FOR THE PETITIONER**

21. Learned counsel for the petitioner submitted that no doubt, lease deed has been executed on 13.01.2010, wherein time for completion of the building and implementation of the project was two years. However,

possession was given on 20.02.2010. This period had elapsed and the building plan has not been approved within 3 months of the execution of lease deed. The petitioner had applied for approval of the map within the said period of three months in which the building was to be constructed. However, the same was refused on the ground that the building plan has not been approved within three months. Since the time elapsed and the same can only be approved after the time extension is being granted to the petitioner. On 14.02.2011, the petitioner had sought for extension of time and had also deposited the fees for processing the application for extension of time on 28.02.2011. Since the ball was in the court of respondents, they ought to have taken decision on this application, but they kept it pending. When the petitioner asked for extension of time, it was informed that the application for extension of time has been forwarded to the Headquarters and once a decision is taken by them, and the time extension is granted, then only the building plan could be approved.

22. This application for extension of time remained pending with the respondents for five years. In the meanwhile, the respondents have sent a notice for cancellation of lease deed and re-possession because the petitioner has failed to construct the building within time. It is after much persuasion i.e. after lapse of 8 years, UPSIDC allowed the application for extension of time vide order dated 29.10.2020 subject to payment of Rs.86,41,002/- within a period of 30 days. This order has been assailed by means of the Writ-C No.5960 of 2021. He further submitted that time extension fee charged by the UPSIDC was highly excessive and without any basis.

23. Learned counsel for the petitioner further submitted that the respondent cannot take benefit of its own laxity and its negligence by not considering the application for extension of time and approval of the building plan for so many years. He further submitted that demand of Rs.86,41,002/- has been made under three heads i.e. lease rent, service tax and time extension fee and no break-up was given when the same

was demanded by the petitioner. He further submitted that petitioner cannot be made to suffer for the wrong on the part of the respondents.

24. As far as the second writ petition is concerned, learned counsel for the petitioner submitted that once the building plan was approved and the building was completed, withholding of the functional certificate by the UPSIDC is completely illegal.

25. He further submitted that the petitioner has already invested about Rs.8.35 crores in completing the building and the respondents are illegally depriving it from using the same. The entire delay for grant of approval is because of inaction on the part of the respondents and hence, the petitioner could not be saddled with the cost for the delay for which it is not responsible. The respondents cannot be allowed to take benefit of its own wrong/fault. On one side, they did not decide the application for extension of time which kept pending for years with them and on other side, they charged heavy fees for the delay, which cannot be burdened on the petitioner.

#### **ARGUMENTS OF LEARNED COUNSEL FOR THE RESPONDENTS**

26. Learned counsel for the UPSIDC submitted that the petitioner has sought transfer of land from earlier allottee. The permission of the transfer was granted and subsequently, lease deed was executed on 13.01.2010. One of the condition of the lease deed i.e. clause 3(e) made it very clear that the lessee was supposed to construct the premises and would commence the construction within three months from execution of lease deed and has to complete 30% of the allotted area fit for use and start manufacturing and production within a period of 13 months from the execution of lease deed, unless the time is extended and there will be time extension fees (as per prevailing rules) for grant of time extension.

27. He further submitted that petitioner was aware and it had to start construction and finish substantial portion of the building. However, the petitioner failed to do so. The petitioner applied for approval of building

plan on 29.12.2010 after a lapse of more than 11 months, whereas it was supposed to start construction within three months and complete the construction within 13 months. The petitioner was well aware of the fact that time extension is granted only after payment of extension fees as per prevailing rules. He further submitted that the issue of time extension was taken to the board, and it is only after 274<sup>th</sup> Board meeting held on 30.06.2011, wherein it has been decided that 15% interest would be charged for time extension after 4 years of the allotment. He further submitted that time extension fee is calculated under two heads, firstly @ 10% up 01.10.2013 and thereafter from 11.01.2014 to 11.01.2022 @ 15% as per the Board decision.

28. He further submitted that time extension charge has been levied on the basis of Board's decision and as per the Clause 3(e) of the lease deed, wherein the petitioner had agreed to pay time extension charges as per the prevailing rules for grant of time extension.

29. He further submitted that there are certain outstanding amount (which has not been denied by the petitioner) towards lease rent upto 31.03.2021 Rs.1,73,622.42/- and Rs.31,252/- towards service tax on lease rent and Rs.50,11,425/- is towards time extension fee upto 11.01.2022 and Rs.34,24,703/- is towards interest on time extension fee.

30. Learned counsel for the respondents further submitted that the break-up has also been given to the petitioner in the counter affidavit. However, latest break-up, which has been calculated up 18.12.2025, was handed over in the court, and taken on record. Once the petitioner pays the entire outstanding, respondents would grant functional certificate to the petitioner.

### **ANALYSIS BY THE COURT**

31. Heard learned counsel for the parties and perused the record.

32. It is apparent that the petitioner applied for transfer of the land and the permission of transfer was given on 31.01.2009, wherein it has been

stated that the transferee will submit a definite time bound construction and implementation of the project not exceeding two years. Thereafter lease deed has been executed between the petitioner and the respondents. Plain reading of Clause 3(e) of the lease deed shows that the petitioner was supposed to start construction within a period of three months from execution of the lease deed and complete at least 30% area within 13 months. The petitioner failed to even apply for the approval of the building plan within the stipulated time, which amounts to breach of condition of the lease deed on the part of the petitioner. Almost after lapse of 11 months, the petitioner applied for approval of the building plan. Since the time had elapsed, the respondents could not approve the building plan unless time extension was granted. A formal application for extension of time has been moved by the petitioner on 28.02.2011 after paying the process charges. The same has been forwarded by the UPSIDC to the Headquarters, for necessarily approvals.

33. Shockingly, the respondents sat tight on this application and it is only after lapse of 8 years on 29.10.2020, the respondents have allowed the application for extension of time asking the petitioner to pay Rs.86,41,002/- towards time extension fee. No reason has been assigned by the respondents to demonstrate as to why there was a delay of 8 years to take a decision. Thus, the argument of the petitioner, that it could not be saddled with a cost for the inaction or delay on the part of the respondents to take any decision, has substance.

34. The order dated 29.10.2020, whereby time has been extended, has been challenged in one of the writ petitions on the ground no break up has been provided and time extension charges were exorbitant. However, in the counter affidavit break-up has been given. This Court directed the petitioner to pay Rs.25 lakhs and also directed the respondents not to take any coercive action. When the petitioner moved an application for sanction of the building plan, the same was rejected vide order dated 13.07.2023, which has been assailed by the petitioner by means of Writ-C No.9598 of 2023 and this Court vide order dated 22.05.2023 quashed

the orders dated 22.2.2023 and 31.10.2022 passed by the respondents and the matter was remanded to the competent respondent-authority to consider the building plan/map submitted by the petitioner.

35. Subsequently, building plan was sanctioned and the building was completed. After completion of the building, the petitioner applied for functional certificate, which was refused by the respondent on the ground that certain outstanding dues are pending against the petitioner vide order dated 23.01.2025. This order dated 23.01.2025 has been assailed by the petitioner by means of Writ-C No.4588 of 2025.

### **CONCLUSIONS**

36. In this case, the respondent (UPSIDC) was apparently responsible for the delay of 8 years in deciding the application for extension of time as the same was kept pending with them. Once the time extension was granted, the time extension fee was levied as per the lease deed and the resolution passed by the Board of Directors. However, a sum of Rs.34,24,703/- was charged towards interest on time extension fee. In this case, it is not only the respondents, who are responsible for the delay, but also the petitioner is equally responsible for the delay. He was well aware that he had to move an application for approval of the building plan and the building had to be constructed and the production has to be started within 13 months from the execution of the lease deed, he chose to move the application for approval of the building plan after a lapse of 11 months. No doubt the application for extension of time was filed on 28.02.2011 and no decision was taken by the respondent for good 8 years. Any prudent businessman, if he was serious about establishing his factory, would have approached the Court seeking appropriate directions, including a writ of mandamus, to compel the respondents to decide his application. However, the petitioner chose not to do so. Instead, he remained inactive for a considerable period and waited until the value of the land increased. It was only thereafter, he chose not to develop a factory, but to convert the building into a

commercial complex. Therefore, the conduct of the petitioner does not appear to be bona fide.

37. The celebrated legal maxim "*Nullus Commodum Capere Protect De Injuria Sua Propria*" is fully applicable in the instant case that no man can take advantage of his own wrong. It is a recognised and settled fundamental principle of law based on equity, justice and good conscience, ensuring that the courts do not help a person whose argument is founded upon his own unlawful or wrongful act. The maxim has been referred in Broom's Legal Maxims (10th Edn.) p. 191 wherein it was stated;

*"it is a maxim of law, recognised and established, that no man shall take advantage of his own wrong; and this maxim, which is based on elementary principles, is fully recognised in Courts of law and of equity, and, indeed, admits of illustration from every branch of legal procedure".*

**(emphasis added)**

38. In the case of ***Kusheshwar Prasad Singh vs. State of Bihar***<sup>2</sup>, the Hon'ble Supreme Court has held that an authority cannot be allowed to take advantage of its own wrong giving favourable interpretation of law. The relevant para is extracted as under :

*"16. It is settled principle of law that a man cannot be permitted to take undue and unfair advantage of his own wrong to gain favourable interpretation of law. It is sound principle that he who prevents a thing from being done shall not avail himself of the non-performance he has occasioned. To put it differently, "a wrong doer ought not to be permitted to make a profit out of his own wrong"."*

**(emphasis added)**

39. The Hon'ble Supreme Court in the matter of ***Eureka Forbes Limited v. Allahabad Bank***<sup>3</sup> has held that the maxim *nullus commodum capere potest de injuria sua propria* has a clear mandate of law that, a person who by manipulation of a process frustrates the legal rights of

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2. (2007) 11 SCC 447

3. (2010) 6 SCC 193

others, should not be permitted to take advantage of his wrong or manipulations. This Principle of law was further recognised and appreciated by the Hon'ble Supreme Court in the matter of *Bhartiya Seva Samaj Trust v. Yogeshbhai Ambalal Patel*<sup>4</sup> and also by the division bench of this court in the matter of *Yasir Ali Khan vs State Of U.P.; Writ-C No. 44309 of 2017*<sup>5</sup>.

40. In this case, both the petitioner and respondents are equally liable. On one hand, the respondent cannot take advantage of own fault and charge interest on the time extension fee, and on the other hand, the petitioner cannot be allowed to take undue advantage by buying time extension of years. The break up given during the course of hearing by learned counsel for the respondents clearly shows that there was an outstanding dues, which reads as under:

1.	Cost of Plot with Intt.	Full Paid
2.	Lease Rent Balance 01-04-2013 to 31-03-2026	2,70,080.00
3.	GST 18% On Lease Rent	48,615.00
4.	Maintenance Charge Balance Upto 01-04-2025 to 31-03-2026 (7716.55 sq mt x Rs.38 per sq mtr/year)	2,93,229.00
5.	Time Extension Fees as applicable from dated 13-01-2012 to Date of Start of Production 12-01-2025	70,53,116.00
6.	Intt. on Time Extension Fees from 13-01-2012 to 31-12-2025	82,76,405.00
Total		1,59,41,445.00

41. As far as the cost of serial nos.2 to 4 is concerned, if the same is outstanding towards the petitioner, the petitioner is bound to pay the same. As far as the time extension fee is concerned, the respondents have charged it as per the decision of the Board in 274<sup>th</sup> Meeting held on

4. (2012) 9 SCC 310

5. Neutral Citation No. - 2020:AHC:119854-DB

30.06.2011 and as per the terms of lease deed, which the petitioner is bound to pay.

42. As far as the interest part on the time extension fee from 13.01.2012 to 29.10.2020 is concerned, the same can be waived off because there was an admitted apparent delay on the part of the respondents in not taking decision on the application for extension of time.

43. Hence, we direct that the interest on the time extension fee should not be levied till 29.10.2020 i.e. the date on which the respondent took the decision, as the delay is on their part. However, from 30.10.2020 till date, the petitioner is liable to pay interest as applicable as per the terms of the lease deed.

44. In the aforesaid facts and circumstances, firstly we direct the UPSIDC to furnish the re-calculation to the petitioner within two weeks and thereafter the petitioner has to deposit the outstanding amount as calculated by the UPSIDC in further four weeks. Secondly, while depositing the amount the petitioner has to tender a categorical undertaking to the UPSIDC in further two weeks' time in terms of the lease deed to complete the construction and making the unit functional. In case the petitioner fails to abide the aforesaid directions, the UPSIDC will be at liberty to proceed for cancellation of the lease in accordance with law.

45. With the aforesaid observations/directions, both the writ petitions stand **disposed of**.

**(Prashant Kumar,J.) (Mahesh Chandra Tripathi,J.)**

**May 04, 2026**

Anupam/RKP

(Judgment is pronounced by me under Chapter VII Rule 1 (2) of the Allahabad High Court Rules, 1952.)