



Reserved on 31.03.2026
Delivered on 16.04.2026



2026:AHC:83306-DB

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 37114 of 2023

Kamrunnisha

.....Petitioner(s)

Versus

State of U.P. and 3 others

.....Respondent(s)

Counsel for Petitioner(s) : Rahul Singh, Rakesh Kumar, Tarun
Tiwari
Counsel for Respondent(s) : C.S.C.

Court No. - 1

**HON'BLE AJIT KUMAR, J.
HON'BLE INDRAJEET SHUKLA, J.**

Per : Indrajeet Shukla, J.

Order on Civil Misc. Impleadment Application No.3/2024

1. None appears to press the application for impleadment.
2. Impleadment application is rejected.

Order on Civil Misc. Substitution Application No.8/2026

1. Application for substitution is allowed.
2. Let necessary correction /amendment be carried out.

Order on Writ Petition

1. Heard Mr. Rakesh Kumar, learned counsel for the petitioner and Sri Pradeep Singh, learned Standing Counsel for the State-respondents.
2. Present writ petition under Article 226 of the Constitution of India has been instituted by petitioner Kamrunnisha, being the wife/legal heir of late Mati Ullah (original allottee of Quarter no.3, Bunkar Colony, Nati

Imli (Labour Colony Chauraha), District Varanasi with the following main prayers:

“(i) issue a writ, order or direction in the nature of Mandamus directing the respondents No.4 to give possession to petitioner over the locked part of Quarter No.3, Bunkar Colony, Nati Imli, (Labour Colony Chauraha), District-Varanasi, expeditiously.

“(ii) issue a writ, order or direction in the nature of mandamus directing the respondent no.4 to take appropriate decision upon petitioner’s application dated 15.09.2015 (Annexure No.8 to the writ petition) in accordance with law within reasonable time.”

Factual Matrix

3. The factual matrix giving rise to the instant writ petition is delineated herein as under:

4. The facts as culled out from pleading of writ petition are that petitioner’s husband late Mati Ullah was allotted Quarter no.3 Bunkar Colony Nati Imli (Labour Colony Chauraha), District Varanasi by respondents under the State sponsored housing scheme launched for silk weavers. The petitioner’s husband was in possession and was continuously paying rent against the quarter no.3 allotted to him, admeasuring area 25 x 50 square feet. In the meantime, after death of petitioner’s husband, she being widow inherited the possessory rights. However, two persons namely Mohd. Shoeb and Mohd. Juned forcibly grabbed possession over a small portion of Quarter no.3, initially allotted to petitioner’s husband.

5. Petitioner lodged a complaint on 21.09.2013 before the police for removal of the said unauthorised occupants and thereafter, filed two representations dated 26.02.2014 and 05.03.2014 addressed to the District Magistrate, Varanasi.

6. On the representation dated 05.03.2014, filed by petitioner, cognizance was taken by 4th respondent/Assistant Director, Handloom and Textile Industries, Varanasi Region, Varanasi and notices were

issued to Mohd. Shoeb and Mohd. Juned directing them to vacate their unauthorised occupation qua Quarter no.3.

7. Petitioner, thereafter, instituted Writ-C No.27434 of 2014 titled as Kamrunnisha Vs. State of U.P. and 5 others which was disposed of on 19.05.2014 by following below quoted order:

“From the records, it appears that the Assistant Director, Handloom & Textiles, Industries, Varanasi has issued a notice to the fifth and sixth respondents alleging that the aforesaid private respondents are in unauthorized occupation of Quarter No. 3 and calling upon them to vacate the premises failing which appropriate action would be taken in accordance with law.

Since a notice has been issued by the fourth respondent, we direct that the fourth respondent shall act in pursuance of the notice and pass appropriate orders strictly in accordance with law after furnishing the fifth and sixth respondents an opportunity of being heard, preferably within a period of two months of receipt of a certified copy of this order.”

8. After the order dated 19.05.2014 passed by co-ordinate bench of this Court in Writ C No.27434 of 2014, said Mohd. Shoeb and Mohd. Juned instituted Writ-C No.42854 of 2014 titled as Mohd. Shoeb & Another Vs. State of U.P and 4 others assailing the order dated 07.07.2014 passed by Assistant Director, Handloom and Textile Industries, Varanasi Region, Varanasi by which a direction was issued against them to vacate ‘the portion of Quarter in question’ within a period of one week, failing which, the Station Officer was directed to get the house vacated and possession of portion of house encroached to be handed over to Smt. Kamrunnisha (petitioner herein). The writ petition so filed by Mohd. Shoeb and Mohd. Juned was allowed vide order dated 20.08.2014. The relevant portion of the order passed in Writ C No.42854 of 2014 is extracted as under:

“In this view of the matter it will not be necessary to issue notice to the respondents and the petition can be disposed of at this stage.

As the order dated 7 July 2014 is not in accordance with the order dated 19 May 2014 passed by the Court, it deserves to be set-aside and is set-

aside. A direction is issued to the Assistant Director to pass a fresh order strictly in accordance with the order dated 19 May 2014 passed by the Court in Writ Petition No. 27434 of 2014 filed by Smt. Kamrunnisha.

The writ petition is, accordingly, allowed to the extent indicated above.”

9. Fresh proceedings were undertaken before Assistant Director, Handloom and Textile Industries, Varanasi Region, Varanasi in compliance of order dated 20.08.2014 passed in Writ C No.42854 of 2014 and order dated 19.05.2014 passed in Writ C No.27434 of 2014. The 4th respondent/Assistant Director, Handloom & Textile Industries, Varanasi Region, Varanasi put the parties to notice and framed points of determination to the effect “whether the property in question which was allotted to original allottee late Mati Ullah, has been trespassed by Mohd. Shoeb and Mohd. Juned” and the second point of determination was “whether on the basis of affidavits and material produced by Mohd. Shoeb and Mohd. Juned it can be construed that they are allottee of property in question i.e. Quarter No.3, Bunkar Colony, Nati Imli (Labour Colony Chauraha), District Varanasi”

10. The 4th respondent/Assistant Director, Handloom & Textile Industries, Varanasi Region, Varanasi concluded vide order dated 18.10.2014 that Quarter No.3 was originally allotted to late Mati Ullah and despite meticulous examination of material putforth by Mohd. Shoeb and Mohd. Juned they were found to be trespasser. The operative portion of order dated 18.10.2014 passed by 4th respondent/Assistant Director, Handloom & Textile Industries, Varanasi Region, Varanasi is extracted as under:

"आदेश

उपरोक्त विवेचना / परीक्षण के अधीन उक्त प्रकरण में यह आदेश पारित किया जाता है कि उ० प्र० राज्य / उद्योग विभाग बुनकर की कालोनी नाटीईमली वाराणसी में स्थित क्वार्टर नं. ३ जो विभाग शासन द्वारा एलाटी स्व. मतीउल्ला के नाम आवंटित है, पर मु० शोएब व मु० जुनैद ने अनाधिकृत रूप से अवैध कब्जा किया है तथा कार्यालय द्वारा मु० शोएब व मु० जुनैद दोनों के नाम प्रेषित पत्र / नोटिस पत्रांक 116 दिनांक 11.04.2014 पृष्ठ किया जाता है तथा मु० शोएब व मु० जुनैद को आदेशित किया जाता है कि आदेश प्राप्ति के एक सप्ताह के अंदर क्वार्टर नं. 3 बुनकर कालोनी

नाटी ईमली वाराणसी को खाली कर दें। अन्यथा उक्त अवधि के व्यतीत होने के पश्चात आपके विरुद्ध आवश्यक कानूनी कार्यवाही की जायगी जिसकी पूर्ण जिम्मेदारी आपकी होगी।

(नितेश धवन)

*सहायक निदेशक हथकरघा एवं वस्त्रोद्योग,
वाराणसी"*

Submission Advanced by counsel for the petitioner

11. Learned counsel for the petitioner submitted that petitioner who is admittedly legal heir/widow of original allottee/occupant late Mati Ullah, filed an application for possession of portion of Quarter No.3, which was trespassed/encroached by Mohd. Shoeb and Mohd. Juned but even after recovery of possession, same was not restored in favour of the petitioner. Thus, she filed another application on 15.09.2015 addressed to 4th respondent/Assistant Director, Handloom & Textile Industries, Varanasi Region, Varanasi.

12. The further submission advanced by counsel for the petitioner is that the respondents themselves have admitted the allotment of the quarter in question in favour of the petitioner's husband, late Mati-Ullah, by virtue of orders dated 11.04.2014 and 18.10.2014 passed by respondent no. 4, and therefore, the petitioner's lawful entitlement and right over Quarter No. 3 stands clearly established. But despite such clear admission by the competent authority, no document or material has been brought on record by the respondents to dislodge findings contained in the order dated 18.10.2014 passed by the 4th Respondent.

13. Once the allotment/occupation of petitioner & her predecessor in-interest is admitted, there is no justification for the authorities to withhold possession of any part of the quarter, especially after evicting the unauthorized occupants. Thus, such retention of possession is wholly illegal, arbitrary and without authority of law.

14. The counsel for the petitioner strenuously urged that the respondents cannot be allowed to act contrary to their own records and orders, and they are legally bound from denying the petitioner's rightful claim to possession.

Submission Advanced by counsel for the State-Respondents

15. Learned Standing Counsel, while refuting the submissions advanced on behalf of petitioner submitted that M/s Silk Weaver Cooperative Societies Limited Varanasi was given the responsibility for the realisation of the rent for the allotted shops and deposit of same in treasury, but due to non depositing of the rent in the treasury despite its collect, dispute started and as such vide Govt. Order dated 17.03.1981 and 18.10.1994 it was resolved that the quarters in Bunkar Colony would be transferred pursuant to Govt. Notification dated 09.09.1994 by District Magistrate. The then Director Handloom & Textile Industries, U.P. Kanpur vide letter dated 22.11.1994 requested the District Magistrate, Varanasi to transfer quarters situated in Bunkar Colony, Nati Imli (Labour Colony Chauraha), District Varanasi, but same could not be materialised.

16. The further submission advanced by State Counsel also fortified by pleadings contained in the counter affidavit particularly in paragraph 3H, is that a Committee was constituted under the order dated 16.03.1996 passed by the Additional District Magistrate (Administration) Varanasi who prepared a list of occupants residing in Bunkar Colony in which at serial no.3 against the property/Quarter No.3, the name of Mati Ullah s/o Hafiz Ullah is mentioned. It has further been emphasized that the records related to the allotment of Quarter No.3 in the name of late Mati Ullah are not available in the office and at the same time, petitioner has not produced any documentary evidence, establishing allotment of Quarter No.3 in favour of late Mati Ullah.

17. It was further submitted that petitioner illegally constructed unauthorised shops on government land adjacent to Quarter No.3. The petitioner is also realizing rent from such unauthorised constructions and therefore, the petitioner is guilty of encroachment and misuse of government land. Based on the enquiry, respondent no.4 issued a warning letter dated 09.11.2022 directing for removal of unauthorised

construction and handing over possession to the department. It is further submitted that the petitioner has no ownership rights/valid allotment and is involved in unauthorised occupation and construction.

18. The further submission advanced by learned counsel for the State respondents is that in absence of allotment letter, the portion of Quarter No.3 which has been recovered from Mohd. Shoeb and Mohd. Juned cannot be restored to petitioner.

Discussion and Findings

19. The factual position as emerges from thrashing out the material available on record is that, Mohd Shoeb and Mohd. Juned were found to be unauthorised occupants of Quarter No.3 in Bunkar Colony, Nati Imli (Labour Colony Chauraha), Varanasi and possession from them have been recovered by virtue of order dated 18.10.2014 passed by Assistant Director, Handloom & Textile Industries, Varanasi Region, Varanasi. The said order dated 18.10.2014 has been implemented through police machinery and the order dated 18.10.2014 passed by Assistant Director, Handloom & Textile Industries, Varanasi was challenged by Mohd Shoeb and Mohd. Juned, through Writ-C No.59769 of 2014 which too has been dismissed and the order dated 18.10.2014 has been affirmed vide order dated 11.11.2014. The order dated 11.11.2014 passed in Writ-C No.59769 of 2014 is extracted as under:

“Heard learned counsel for the parties.

From the record of the present writ petition, it is apparent that the Assistant Director, Handloom and Textiles Industries, Varanasi Region, Varanasi as per his order dated 18.10.2014 has held that the petitioners are in unauthorized occupation of the Quarter no.3 Bunkar Colony Natiimali, Labour Colony Chauraha, Varanasi. It is not in dispute that the said quarter is the property of the State of Uttar Pradesh Industries Department. The Assistant Director, Handloom and Textiles Industries, Varanasi Region, Varanasi has required the petitioner to vacate the premises failing which legal action shall be taken.

We find no ground to interfere with the order of the Assistant Director, Handloom and Textiles Industries, Varanasi Region, Varanasi.

"This writ petition is finally disposed off."

20. After passing of order dated 11.11.2014 in Writ C No.59769 of 2014, petitioner instituted Writ-C No.18178 of 2015 and this Hon'ble Court asked the State counsel to seek instructions, whether order dated 18.10.2014 has been complied with or not, then thereafter on 25.04.2015 order was passed by Additional City Magistrate III, Varanasi, which reads as under:

"महोदय,

कृपया सहायक निदेशक, हथकरघा, वाराणसी के पत्र सं0-136-39, दिनांक 15 अप्रैल, 2015 का संदर्भ ग्रहण करने का कष्ट करें, जिसमें मा० उच्च न्यायालय, इलाहाबाद में योजित सिविल मि० रिट याचिका सं0-18178/2015 कमरुन्निशा बनाम उ० प्र० सरकार व अन्य में पारित आदेश दिनांक 03-04-2015 के क्रम में अवैध रूप से आवासित क्वार्टर नं०-3 बुनकर कालोनी में मो० शोएब व मो० जुनैद पुत्रगण जहीर अहमद से रिक्त कराने सम्बन्धी है। अवगत कराना है कि सहायक निदेशक, हथकरघा, वाराणसी व थाना, जैतपुरा, वाराणसी के पुलिस बल की उपस्थिति में दिनांक 24-04-2015 को क्वार्टर नं०-3 के अंश भाग में स्थित प्रथम एवं द्वितीय तल ० 8 कमरे एवं 01 बड़ा हाल को अवैध अध्यासी से खाली करा दिया गया है तथा सभी रिक्त कराये गये भाग को खाली होने के पश्चात् सील बन्द कराकर ताला लगा दिया गया है तथा चाभी सहायक निदेशक, हथकरघा, वाराणसी की सुपुर्दगी में दे दिया गया है। खाली कराने के उपरान्त मो० शोएब व मो० जुनैद एवं उनके सम्बन्धी अपना सामान पुलिस बल के समक्ष उठाकर ले गये। सम्पूर्ण कार्यवाही की वीडियोग्राफी करा ली गयी है।

आख्या सेवा में सादर प्रेषित है।

अपर नगर मजिस्ट्रेट (तृतीय)
वाराणसी।"

21. Subsequently, another Writ-C 18178 of 2015 was instituted by petitioner which was disposed of finding the possession of Quarter No.3/ property in question has been recovered from unauthorised occupants. The State respondents refused to hand over the possession of portion of Quarter No.3 recovered from unauthorised occupants. Only on the strength that there was no allotment letter available in their office and as such tried to dispute the allotment in favour of late Mati Ullah and

emphasised that petitioner has no right or valid allotment either in her favour or in favour of her husband but the occupation/possession of petitioner and her husband has always been recognized even by virtue of list of occupants prepared on 16.09.1996 brought on record by State respondents themselves through Counter Affidavit and vide order dated 18.10.2014 passed by 4th respondent and possession of petitioner has never been questioned by the State authorities.

22. The instant writ petition was taken up on 09th March, 2026 and on the said date below quoted order was passed:

“3. Learned Standing counsel for the State, at this stage, has drawn the attention of the Court to paragraph no.12 of the counter affidavit in which a stand has been taken that there was no allotment ever issued in favour of Late Mati Ullah for Quarter no.3. These averments made in paragraph no.12 have been sworn by the Assistant Director, Handloom & Textile Industries, Varanasi Region, Varanasi.

4. On the face of it, the averments so made run contrary to the stand taken by the officer of the same rank in the order passed for dispossession by him of the unauthorized occupant on 18.10.2014.

5. Let the allotment list of all the allottees of the colony in question be placed before this Court on an affidavit to be sworn by the Assistant Director, Handloom & Textile Industries, Varanasi Region, Varanasi by the next date fixed, failing which he shall be appearing in person before this Court.”

23. In compliance with order dated 09.03.2026, the matter was taken up on 31.03.2026 and the State respondents failed to produced allotment list of all allottees of the colony in question before this Court and as such, this Court is left with no other option except to draw an adverse inference against the State’s stand and to treat the fact mentioned in order dated 18.10.2014 qua allotment of late Mati Ullah to be correct which consistently remained intact even after several round of litigation before this Court.

24. The respondents themselves have admitted the allotment of the quarter in question in favour of the petitioner’s husband, late Mati Ullah, in the orders dated 11.04.2014 and 18.10.2014 passed by respondent no.

4, and, therefore, the petitioner's lawful entitlement and right and retention of possession over Quarter No. 3 stands clearly established.

25. Despite such clear admission by the competent authority, no document or material has been brought on record by the respondents to dispute or deny the allotment as claimed by petitioner in favour of her late husband.

26. Once the allotment could not be disputed there was no justification for the authorities to have withheld possession of any part of the quarter, especially after evicting the unauthorized occupants. Such retention of possession is wholly illegal, arbitrary and is without authority of law.

27. We must record here that as per own averments vide paragraph 3 (D,E,F,G) the proceedings were started to execute transfer deed in favour of those who were occupant of quarters in weavers' colony and transfer deeds would have been executed but for an intervention of Court (Lucknow Bench of this Court in Writ Petition No.1405 (M/B) of 1996, later on dismissed on 08.03.2013). The proceedings were reinitiated under direction of this Court vide order dated 10.07.2014 passed in Writ Petition No.27435 of 2014. The Committee constituted for the purpose of identifying occupants in the the year 1996 itself acknowledged petitioner's husband being a valid occupant by placing him at serial no.3 of the list prepared dated 19.06.1996. The list bears signatures of Assistant Director Handicraft and Cloth Industries, Varanasi (para 3H). It is worth mentioning here that ejection of unauthorised occupants of the quarter in question namely Mohd. Shoeb and Mohd. Juned both sons of Zaheer Ahmad had been done upon the complaint filed by her vide letter dated 09.03.2014 in compliance of the order passed by this Court in a Writ Petition being Writ C No.27434 of 2014 dated 19.05.2014. Neither at the time of compliance of Court's order to evict unauthorized occupants nor at the time of passing of order dated 20.08.2014 in writ petition being Writ C No.42854 of 2014 State respondents took any stand that writ petitioner had no locus to either maintain a complaint or file writ petition as a wife of a valid allottee Mati Ullah. We may observe

here also that any suit filed by the unauthorised occupant namely Mohd. Shoeb and Mohd Juned who have already been dispossessed, cannot weaken the case of the petitioner for execution of transfer of deed. Once the Government had itself decided to transfer quarters to the occupant-weavers in possession, the death of a husband-weaver cannot be a ground to deny same rights to weaver's widow. In a family of weavers in India, all members do weaving and the weaving is a hereditary art that passed on to the next generation. We cannot permit death of this art by displacing the members of the family of a weavers from the colony upon the death of head of the family.

28. The respondents cannot be allowed to act contrary to their own records and orders, and they are legally bound to honour petitioner's rightful claim of possession.

Order

29. In view of the above, writ petition succeeds and is allowed. The order dated 19.05.2014 is hereby quashed. The 4th respondent/Assistant Director, Handloom & Textiles Industries, Varanasi Region, Varanasi is commanded to restore possession of the locked part of Quarter No.3, Bunkar Colony, Nati Imli (Labour Colony Chauraha), District Varanasi to writ petitioner forthwith. Transfer deed shall be executed to the successor of late Mati Ullah namely Kamrunnisha his wife, the petitioner, in terms of order dated 19.05.2014 in Writ C No.27434 of 2014.

30. There will be no order as to cost.

(Indrajeet Shukla,J.) (Ajit Kumar,J.)

April 16, 2026

Mohit