



HIGH COURT OF JUDICATURE AT ALLAHABAD
CONTEMPT APPLICATION (CIVIL) No. - 3976 of 2026

Javed Alam

.....Applicant(s)

Versus

Mr. Himanshu Nagpal, Commissioner Of
Municipal Corporation And 2 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Mohammad Waseem
Counsel for Opposite Party(s)	:	Vineet Sankalp

Court No. - 53

HON'BLE VIKAS BUDHWAR, J.

1. The present contempt application has been preferred alleging willful defiance of the order dated 07.05.2026 passed in Writ-C No. 16633 of 2026, order whereof is quoted hereinunder.-

"1. Heard Shri S.F.A. Naqvi, learned Senior Counsel assisted by Shri Zaheer Asghar, learned counsel for the petitioner, learned Sanding Counsel for respondent nos.1 to 4 and Shri Vineet Sankalp, learned counsel appearing for respondent no. 5.

2. Present petition has been filed seeking following reliefs:-

"a. Issue a writ, order or direction in the nature of certiorari quashing the impugned notice dated 15.04.2026 issued under Section 331(1)(2) of the U.P. Nagar Mahapalika Adhiniyam by respondent no. 5.

b. Issue a writ, order or direction in the nature of mandamus commanding the respondents not to demolish or interfere with the peaceful possession of the petitioner over House No. 39/12, Dalmandi, District Varanasi."

3. Pursuant to the order dated 30.04.2026, Shri Vineet Sankalp has produced instruction dated 30.04.2026 along with inspection report dated 15.04.2026, which are taken on record.

4. Learned Senior Counsel appearing for petitioner has placed reliance upon the judgment of this Court in the matter of Shirish Chandra and others vs. State of U.P. and others; 2017 7 ADJ 146 decided on 12.05.2017 and submitted that in terms of Para-8 of judgment read with Section 331 of U.P. Municipal Corporation Act, 1959 (in short, 'Act,

1959'), Municipal Commissioner shall constitute a Committee consisting of an Architect and Executive Engineer, but in present case there is no Architect in the inspection Committee submitted inspection report dated 15.04.2026. Further, while sending notice dated 15.04.2026, inspection report was not provided to the petitioner, therefore, proceeding so initiated is bad and is in teeth of judgment of this Court passed in *Shirish Chandra (Supra)*. Lastly, he submitted that in the light of aforesaid submissions, proceeding initiated through impugned notice may be quashed and petition may be allowed.

5. Sri Vineet Sankalp, learned counsel for respondent no. 5 though opposed the submissions of learned Senior Counsel appearing for petitioner, but could not dispute the facts so argued.

6. Therefore, in the light of aforesaid facts, we dispose of this petition with direction to respondent no. 5 to constitute a new Committee having at least one Independent Architect from the approved list, Executive Engineer and also one more Executive Engineer from any other department of State, which shall carry out inspection in terms of Section 331 of Act, 1959 and submit report to Municipal Commissioner. Thereafter, Municipal Commissioner may issue notice to the petitioner in terms of Section 331 of Act, 1959 along with inspection report. In case any such notice is issued to the petitioner, he shall submit reply within two weeks from the date of receipt of notice. Thereafter, Municipal Commissioner shall decide the matter in accordance with law after considering the reply of petitioner.

7. Till the aforesaid exercise is completed, parties are directed to maintain status quo as on date with regard to the petitioner's house or shop in question as the case may be."

2. The applicant herein had preferred the present contempt application, in which in para 26 the following was asserted.-

"26. That in pursuance of aforesaid notice, the applicant has moved his objection before the competent authority on 01.06.2026, without considering his objection, the authority concern forcefully demolished to applicant premises on 11.06.2026. For kind perusal of this Hon'ble Court, a true copy of objection dated 01.06.2026 & Photographs property are being collectively filed and marked as Annexure No. 9 to this

affidavit."

3. This Court on 24.06.2026 proceeded to pass the following orders.-

"1. Learned counsel for the applicant submits that in terms of the judgment dated 07.05.2026, notices were issued to him by the Municipal Commissioner on 26.07.2026; and thereafter he has submitted his reply on 01.06.2026, however without passing any orders, the demolition has been carried out.

2. Learned Standing Counsel may seek instruction in the matter.

3. List on 13.07.2026 as fresh."

4. On 13.07.2026, following orders were passed.-

"1. Let a copy of the contempt application be served upon the counsel appearing for the opposite party, as the order 24.06.2026 depicts that the copy of the contempt application has been served upon learned Standing Counsel.

2. Shri Bipin Bihari Pandey, learned Standing Counsel submits that the State does not appear in that regard.

3. Put up this case on 29.07.2026 as fresh, after serving the copy to the counsel for the opposite party, who appeared in the writ proceedings, so as to obtain instructions."

5. On 29.07.2026, this Court proceeded to pass the following orders.-

"1. Let a copy of the contempt application be served upon Sri Brijesh Kumar, learned Standing Counsel during the course of the day, who shall seek instructions in the matter from O.P. Nos. 2 and 3 and to apprise the Court whether on 11.06.2026, any demolition was carried out by the District Administration or not in view of the stand taken by the Opposite Party No. 1 through his counsel Shri Vineet Sankalp that demolition exercise has not been carried out by Opposite Party No. 1.

2. Instructions filed today are taken on record and marked as Appendix 'A'.

3. Put up this case on 20.08.2026, as fresh. By which date the opposite parties shall file their independent affidavits.

4. When the case is next listed name of Sri Vineet Sankalp (AoR No. A/V

0899/2014) be shown from the side of opposite party."

6. Today, three affidavits have been filed one being a compliance affidavit dated 20.08.2026 of the opposite party no. 1, the second dated 28.08.2026 of opposite party no. 2 and the third also of the same date of the opposite party no. 3.

7. In the compliance affidavit so filed by the opposite party no. 1, it has been asserted that post examination of the record of the disputed building, it transpired, according to the opposite party no. 1, that the legal proceedings were initiated against the disputed building no. CK 42/11 under subsection (1) and subsection (2) of Section 331 of the Uttar Pradesh Municipal Corporation Act, 1959 and in furtherance to the proceedings, notice came to be issued on 23.04.2026 Annexure 2 had been appended being the inspection report and the photograph of the same and thereafter, in compliance of the order dated 07.05.2026, a team was constituted by the Municipal Commissioner vide Order dated 15.05.2026 and in the said committee, Executive Engineer of the Varanasi Municipal Corporation, the Executive Engineer of Public Works Department along with an independent registered architect approved by Varanasi Development Authority were nominated as the member and the site inspection of the building was jointly conducted by technical members of the said committee and upon the inspection, the building in question was found to be in an extremely dilapidated and dangerous situation. Thereupon, a fresh notice under Section 331(1)(2) of the Municipal Corporation Act, 1959, came to be issued on 26.05.2026.

8. However in para 7, it has been asserted that no further notice came to be issued under Section 334(3) of the UP Municipal Corporation Act, 1959 and no legal action of any kind has been taken by the Municipal Corporation.

9. In para 8 of the affidavit of the opposite party no. 1, the following has been asserted.-

"8. That the demolition action of the said building has not been carried out by the Municipal Corporation, Varanasi. The demolition action of this building has been carried out by another department.

Since, the demolition of the said building has not been carried out by the Municipal Corporation, it is entirely clear from the above facts that all the actions taken in the present matter by the Varanasi Municipal Corporation are completely within its assigned powers, laws, and in full alignment with the rules keeping the public interest and public safety supreme. the allegations levelled by the petitioners are not only groundless and baseless but appear to be motivated by an intention to unnecessarily obstruct the ongoing lawful proceedings. Therefore, this application is liable to be dismissed."

10. Likewise, so far as the opposite party no. 2 is concerned, in para 15, the following has been asserted.-

"14. That for the widening and strengthening of Dalmandi Road, on the basis of sale deed of the buildings, if the building is found in a dilapidated condition, then the Public Works Department can demolish the same and if the building is found in a dilapidated condition then the demolition action is taken by the Municipal Corporation only. In the present matter, deponent has not taken any action regarding any demolition in any manner. But during the demolition process only for maintaining law and order situation, it was the duty of the deponent to remain present on the spot along with police force. Hence, the deponent was present on the spot along with the police force in order to maintain peace and tranquility in the area during the demolition which was carried out by the Public Works Department. It is further submitted that on 11.06.2026, the demolition proceedings was carried out by the Public Works Department which started peacefully.

15. That it is also most humbly submitted that the order dated 07.05.2026 passed by this Hon'ble Court in the aforementioned writ petition was never provided by the applicant to the deponent it was only when the Hon'ble Contempt Court issued notices to the opposite parties only then the order passed by this Hon'ble Court came in the knowledge of the deponent."

11. As regards, the opposite party no. 3 is concerned, the following has been asserted.-

"16. That thereafter Sri Khurshid Alam, Sri Mehtab Alam and Sri Jahangir Alam sold the portion of the said dilapidated building and accordingly action was taken for removal of the affected portions for construction of the road. However, no action was taken for demolition/acquisition of the remaining portion belonging to the applicant. Since the applicant's portion of the said building was already in a dilapidated condition and the applicant/petitioner himself vacated the said building, therefore, no demolition proceedings was initiated by the District Administration/department in respect of the petitioner's portion but the same collapsed itself."

12. A conjoint reading of the affidavits of the opposite parties no. 1, 2 and 3 show that according to them, no demolition exercise was conducted by them.

13. It is quite paradoxical and amazing that though on 11.06.2026, according to the applicant, demolition exercise stood undertaken, but in the affidavit of the opposite party no. 2 in para 14, the presence of the opposite party no. 2 is not being disputed rather admitted that he was standing there on 11.06.2026 and analogy has been drawn that in order to maintain peace and tranquility in the area during demolition, the officers are present.

14. Let the applicant respond to all the three affidavits filed today.

15. Put up this case on **22.09.2026** at 02.00 p.m. in the additional cause list.

(Vikas Budhwar,J.)

August 20, 2026

Rajesh