



2026:AHC-LKO:60060-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 9042 of 2026

Birendra Prasad Shukla ,Thru. Power Of
Attorney Holder Rajendra Prasad Shukla

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Deptt. Of
Housing And Urban Planning, Lko And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Vasu Lavania
Counsel for Respondent(s)	:	C.S.C., Ratnesh Chandra

Court No. - 1

**HON'BLE RAJAN ROY, J.
HON'BLE MANJIVE SHUKLA, J.**

1. Heard Shri Vasu Lavania, learned counsel for the petitioner and Shri Ratnesh Chandra, learned counsel for Lucknow Development Authority.

2. This petition has been filed seeking the following relief (s):-

"I. Issue a writ, order or direction, in the nature of Certiorari, quashing the demolition order dated 10.07.2026 (Annexure No. 2);

II. Issue an order or direction, declaring/holding the demolition proceedings held on 25.07.2026 to be illegal, arbitrary and without authority of law;

III. Issue a writ, order or direction, in the nature of Certiorari quashing the impugned recovery notice dated 01.08.2026 (Annexure No. 1) bearing letter no. 116/Z-4/26, issued by respondent no. 4

IV. Issue a writ, order or direction in the nature of Mandamus directing the Opposite Parties to pay Damages/Compensation to the petitioner for acting arbitrarily and in gross violation of statutory provision(s), directions and guidelines issued by the Hon'ble Apex Court regarding demolition of structures, Article 14 and Article 21 of the Constitution of India, and the principles of natural justice, and the same be paid according to the guidelines issued by the Hon'ble Apex Court in the case of "In Re: Directions in the Matter

of Demolition of Structures, 2025 (5) SCC 1."

3. A preliminary objection has been raised by Shri Ratnesh Chandra, learned counsel for Lucknow Development Authority, that the order of demolition dated 10.07.2026 passed under Section 27 (1) Uttar Pradesh Urban and Planning and Development Act, 1973 (here-in-after referred to as 'the Act of 1973') is appealable under Section 27 (2) of the Act of 1973.

4. The petitioner has challenged the demolition order dated 10.07.2026. He has also challenged another order dated 31.07.2026 by which an amount of Rs.26,14,210.00 has been demanded from him as the costs of demolition. The said order is consequential to the order of demolition and not a separate order, therefore, it is also amenable to challenge in appeal under Section 27(2) of the Act 1973 and in any case the result of the appeal will govern the validity of the recovery notice and order also. The contention of the petitioner's counsel is that the order of demolition dated 10.07.2026 is in violation of Section 27 of the Act, 1973. In this regard he has submitted that as per Section 27 after passing of the demolition order, 15 days are to be granted for the owner of the building to demolish the same himself. These 15 days are to be calculated from the date of service of the demolition notice which in this case was dated 10.07.2026 and was served upon the petitioner on 13.07.2026 but the demolition took place on 25.07.2026 before expiry of period of 15 days.

5. In response the counsel for Lucknow Development Authority has submitted that in para 18 of the earlier writ petition bearing Writ-C No.7790 of 2026 referred here-in-above, the petitioner himself had accepted the fact that the demolition notice was pasted on the premises on 10.07.2026 but the petitioner's counsel says that the building had been sealed on account of fire incident having been taken place resulting in death of several young persons, therefore, the petitioner did not have access to the building.

6. The other contention of the petitioner's counsel was that on account of non-service of certified copy of the demolition order, the right of appeal available to the petitioner under Section 27(2) of the Act of 1973 has been frustrated and the building has been

demolished, however, counsel for the petitioner submitted that the true copy of the demolition notice issued consequent to passing of the demolition order dated 10.07.2026, was given, based on which an appeal was attempted to be preferred before the Commissioner but the clerk of the L.D.A. informed that a certified copy would be required, whereupon Writ-C No.7790 of 2026 (Birendra Prasad Shukla vs. State of U.P. and others) was filed. He submitted that the certified copy of the order of demolition dated 10.07.2026 was provided to him only after filing of Writ C No.7790 of 2026. He relies upon the order dated 31.07.2026 passed in the said writ petition. In the interregnum on 25.07.2026 demolition was carried out by the officials/employees of the Lucknow Development Authority. He has further submitted that the order of demolition is in gross violation of the directions of Hon'ble Supreme Court in Directions in the **Matter of Demolition of Structures (SC)**, reported in **2025 (5) SCC 1**, as according to him, the demolition had taken place prior to 15 days period prescribed in the aforesaid decision of Hon'ble Supreme Court. In this regard he also relied upon a Division Bench Judgment of this Court in **Writ-C No.16357 of 2020, Abbas Ansari and another vs. State of U.P. and others**. He submitted that even duly sanctioned portion of the building was demolished.

7. Counsel for the Lucknow Development Authority has submitted that prior to demolition order being passed notices were issued to the petitioner in the proceedings under Section 27(1) of the Act of 1973 which is a fact admitted to the petitioner and the notice was dated 23.06.2026 to which objections were filed on 08.07.2026 and thereafter the demolition order was passed 10.07.2026 which was pasted on the premises in question and true copy thereof was also served upon the petitioner on 13.07.2026. From the date of pasting the order on the premises, L.D.A. waited for 15 days time and thereafter demolished the building on 25.07.2026.

8. Learned counsel for the L.D.A. further submitted that a representation dated 24.07.2026 served in L.D.A. office on 25.07.2026, petitioner asserted that in pursuance of notice dated 10.07.2026 he had started the work of demolition of the building on his own, therefore, the prejudice being alleged is merely an eye wash.

9. Learned counsel for the petitioner of course submitted that the premises was sealed, therefore, if any notices were pasted on it, the petitioner would not come to know.

10. We asked the learned counsel for the petitioner as to whether the map which was sanctioned for the building was for residential or commercial purposes, he fairly submitted that it was for residential purpose. Our attention has been invited to page 47 which, according to the petitioner, is a sanctioned map. We have perused the same and it is evident from it that the map was for the construction of residential building as there are bedrooms & kitchens etc. on every floor which are mentioned therein. Page 48 clearly mentions the "Proposed Residence Plan". The reason we pointed out the aforesaid fact is that this is the building where a fire broke out on 22.06.2026 and on account of the manner in which the building had been constructed as informed by counsel for L.D.A., as there was no proper exit in the event of such eventuality of a fire having broken out which in this case resulted in deaths of as many as 15 young children. According to the counsel for L.D.A., there was gross violation of building bye laws. The incident created a lot of resentment in the public at large on account of deaths resulting from such fire. In fact, a P.I.L. bearing No.603 of 2026 was filed in this regard wherein a very detailed order was passed by this very Bench on 02.07.2026 which reads as under:-

"1. Heard the petitioner, appearing in person, Shri Anuj Kudesia, learned Additional Advocate General along with Shri Ratnesh Chandra, learned counsel for Lucknow Development Authority, Shri Manish Jauhari, learned counsel for Opposite Parties No. 8, 9 & 12, Shri Sahilendra Singh Chauhan, learned Counsel for Nagar Nigam and Shri Shailendra Kumar Singh, learned Chief Standing Counsel appearing for the State-respondents.

2. This is a Public Interest Litigation filed by a practicing Advocate in public interest. The catalyst for this P.I.L. is an unfortunate incident where 15 young persons died on account of a fire incident which took place in a three storey building, Housing and Animation Center on Usha Mehta Marg in Aliganj, Lucknow. It is not the first incident. Earlier, there was a fire incident in a hotel namely, Levana at Hazratganj, Lucknow. Other incidents have also taken place.

One petition i.e. W.P.I.L. No. 605 of 2022, pertaining to the Levana fire tragedy, is already pending. Other similar petitions bearing W.P.I.L. No. 14663 of 2019 are also pending. Certain orders have also been passed therein.

3. After such an incident takes place, resulting in injury or casualty, the authorities, of course, spring into action. The matters are also brought to the notice of the Court, as is evident from what has been noticed hereinabove, and the Courts also take cognizance of the same, but, after sometime, the promptness which was reflected immediately after the incident, dies, and again, fresh incidents of fire, take place, resulting in further injury and casualty, therefore, it is for the Government to come out with a Standard Operating Procedure as to how, firstly, issuance or non-issuance of No Objection Certificates by the Fire Department is monitored and verified, at the time of its issuance and even thereafter, both, so as to minimize any mala fide action in this regard by the concerned authorities i.e. issuance of N.O.C. even when the minimum fire safety standards are not satisfied.

4. Similarly, when buildings are under construction and the map etc. is to be sanctioned, the concerned authority whether it be the Development authority, the Avas Evam Vikas Parishad or any other similar authority, is required to ensure that the building is constructed as per norms so that the fire safety and other norms are followed. Often it is said that, though, on paper, the formality is completed, but ultimately, when the building is constructed, it is not as per the norms sanctioned. What is the mechanism in place to detect such anomalies and deviation from the norms while the building is under construction, immediately after the building has been constructed or within a reasonable time of its construction? Unless, all these mechanisms are in place and they are implemented effectively, which will require a strong will on the part of officers and employees of the concerned department and Development authorities, this malaise would be difficult to stop and such incidents will continue to happen. It is for the Government to bring out a Standard Operating Procedure in this regard with appropriate provisions for penal action against the defaulting officers and employees. How is it that buildings are constructed, specially commercial buildings, where the foot fall on a given day is substantial, in violation of the norms? The fact that, it is so, itself is evidence of the fact that whatever mechanism is in place, as of

now, is neither sufficient nor effective. Lives of as many as 15 young persons were lost in the fire, which itself is a reflection of sorry state of affairs.

5. We asked Shri Anuj Kudesia, learned Additional Advocate General appearing for the Lucknow Development Authority as to whether the building complied with the fire safety norms, he submitted that the map for the building in question was sanctioned for residential purposes but a commercial building was constructed and commercial activity was being undertaken therein. He has fairly stated that an order for demolition of the construction made in the basement was passed on 10.05.2016, as the construction was not as per sanctioned map, but, the said order was cancelled / withdrawn on 05.07.2016. On being asked as to whether the construction which took place after recall of the demolition order, was in terms of sanctioned map, learned counsel stated that it was not in accordance with the sanctioned plan. On being further asked as to why construction was not stopped while it was underway illegally and why suitable action under the U.P. Urban Planning and Development Act, 1973 not taken at the appropriate time, as, had it been taken, loss of lives would have been prevented, learned counsel submitted that the fact is that no action was taken.

6. Apart from the Fire departments, Development Authorities, Avas Evam Vikas Parishad etc., U.P. Power Corporation Ltd. or the distribution company such as Madhyanchal Vidyut Vitran Nigam Ltd. etc. also have an important role to play in this regard, as electricity connection to such premises is granted through them. Shri Manish Jauhari, learned counsel appearing for the Power Corporation, on being asked, informs that in the case at hand, electricity connection was granted for residential purposes in 2016 for 2 KVs, but subsequently, on account of an N.O.C. having been granted by the Director, Electrical Safety, who is an officer working under the State Government, commercial electricity connection was granted, and load was enhanced to 20 KVs. We further asked him as to how, if map for the building was sanctioned for residential purposes and the electricity connection was initially granted for residential purposes, subsequently, N.O.C was granted for a commercial electricity connection, he submitted that it is for the State to answer to this query, as, the Director, Electric Safety is under the State Government. It is also a matter to be seen as to how in a premises which was supposed to be residential, firstly, a

commercial activity was being carried out contrary to law and the sanctioned plan, secondly, commercial electricity connection was granted and the load was enhanced. If at that very stage, proper scrutiny had been made by the concerned officials, then this unfortunate incident which took place subsequently, would not have occurred.

7. We asked the learned State Counsel as to what action the State Government has taken after the aforesaid incident, we have been informed that a Special Investigation Team has been constituted. We asked as to who are part of the S.I.T., but learned counsel was not aware of it. We further asked as to what is the reference of the S.I.T., even that could not be pointed out. On being asked as to what the State Government proposes to do for the future, learned Standing Counsel submitted that a high level committee meeting was conducted on 23.06.2026, wherein certain decisions have been taken and minutes of the meeting have also been drawn but he is not in possession of the minutes as of now.

8. Learned Standing Counsel further informed that in view of the U.P. Fire and Emergency Services Act, 2022, Section 26 thereof, multi-storey buildings having a height of less than 15 meters are not required to obtain fire safety certificate from Fire and Emergency Services. If it is so, then from the incident which has taken place in a building which was less than 15 meters, the provision contained in the aforesaid act exempting such buildings from obtaining fire safety certificates, needs to be revisited, as this incident itself proves the provision to be unreasonable, prima facie. All the relevant provisions in this regard need to be revisited by the State Government. In fact, we find that Sub-section 2 of Section 26 speaks of an occupancy certificate, which is to be issued by the authority empowered in this regard and the same shall be issued only after the said authority is satisfied that the owner or the occupier, either individually or jointly, has complied with the provision as given in Sub-section 1 of Section 26. Whether such a certificate was issued in the case, if so, how?

9. We have also been informed that a total amount of Rupees Twelve Lakhs has been paid to each of the deceased as compensation from different departments. We would also like to know as to whether there is any policy in the State Government, whether in the form of a statute or otherwise, determining the parameters on the basis of which quantum of compensation

payable is determined, whether it be in the case of injury or death resulting from a fire incident or any other incident, because we find that different amount of compensation is paid by the State Government in respect of different incidents. In some, the compensation may be to the tune of Rupees Fifty Lakhs, in others Twenty Five lakhs, while in others, such as the case at hand, barely few lakhs. After all, what is the criteria or the basis for the State Government in deciding the quantum of compensation in such matters.

10. We direct the petitioner to implead the A.C.S./ Principal Secretary, Housing and Urban Planning Department, U.P., Lucknow, Commissioner, Housing, U.P. Avas Evam Vikas Parishad Board, Lucknow, U.P. Power Corporation through its Managing Director, Madhyanchal Vidyut Vitran Nigam Ltd. through its Managing Director and A.C.S./ Principal Secretary, Energy, Government of U.P., Lucknow, as opposite parties, in the array of parties of this petition, before the next date.

11. Let all the official opposite parties file their separate counter affidavit in the matter responding to the writ petition, keeping in mind what has been observed hereinabove.

12. The State Government should come out with an S.O.P. to prevent occurrence of such incidents and also for ensuring compliance of building bylaws, fire and safety norms etc. and for fixing responsibility of officers and employees in the event of any lapse.

13. Shri Rakesh Kumar, learned Advocate and member of the Oudh Bar Association has offered to assist us in this important matter as an Amicus. It is open for other members of the Bar to provide us assistance in the matter.

14. The matter shall now come up on 04.08.2026, as fresh, showing the name of Shri Rakesh Kumar, as learned Amicus in the matter. "

11. We may also refer to a representation annexed by the petitioner himself at page No.100 of the writ petition which is addressed to the Vice Chairman of the Lucknow Development Authority. In paragraph No.1 of the said representation, he has stated that in view of the notice for demolition dated 10.07.2026, he had already started the

work of demolition of the premises in question himself but the police/S.I.T. had stopped him, on account of which hindrance has been created in the demolition work undertaken by him. Based on this, Counsel for the L.D.A. has contended that the entire story set up about the appeal having been frustrated and prejudice having been caused is untenable because the appellant himself had started the demolition work, as claimed, in compliance of the order of demolition and the notice of demolition issued to him. We express no opinion on these contentions as these can be considered in appeal which is a statutory remedy prescribed.

12. The fact of the matter is that building has already been demolished. No doubt, if the appeal had been preferred before demolition, it would have been better but whether the petitioner could not prefer it on account of some lapse on the part of the L.D.A. or it was his own fault cannot be ascertained in these summary proceedings under Article 226 of the Constitution of India and in view of the facts and reasons already noticed earlier, as disputed questions of fact are involved.

13. We could have entertained the petition and proceeded further but for the facts noticed hereinabove and also as the petitioner's Counsel has not been able to satisfy us as to how a commercial building was constructed after getting a residential map sanctioned or how the building was been used for commercial purposes in a manner, as alleged, that when a fire broke out on 22.06.2026 several persons who were in the building at that time got caught in the fire and could not come out, resulting in as many as fifteen deaths of young persons.

14. In spite of demolition of the building, the validity of the demolition order can still be considered in appeal and if it is found to be illegal, it can be set aside or declared to be illegal with consequential directions/orders, if any, and based thereon, the petitioner can seek further relief before appropriate court or forum against the L.D.A. or any other person, if the occasion so arises, therefore, keeping all issues open for consideration in such appeal, as to whether the order of demolition was served as per law upon the petitioner or not, if it

was, whether other formalities prescribed in law were complied with or not, we are of the opinion that the petitioner should prefer such appeal now.

15. We, accordingly, permit the petitioner to file an appeal against the order of demolition and seek such reliefs as permissible under law, within a period of one week. If such appeal is filed within one week, it shall not be dismissed on the ground of limitation or delay, the same shall be decided expeditiously and all the pleas raised by the petitioner would be considered by the appellate authority. We, however, decline to exercise our extraordinary discretionary jurisdiction to entertain this petition for the reliefs claimed, in view of the reasons given here-in-above. It is accordingly **dismissed**. The observations made here-in-above will not operate to the prejudice of the petitioner in the matter of his appeal against the order of demolition.

August 24, 2026
akhilesh/-

(Manjive Shukla,J.) (Rajan Roy,J.)