



2026:AHC:169311

## HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 17470 of 2026

Vinod Kumar Malik

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

---

|                           |                                                              |
|---------------------------|--------------------------------------------------------------|
| Counsel for Petitioner(s) | : Shiv Pratap Singh Rathore, Sumit Suri, Sr. Advocate        |
| Counsel for Respondent(s) | : Anil Kumar Chaudhary, C.S.C., Shiv Kumar Singh, Sumit Daga |

---

**Court No. - 36**

**HON'BLE SAURABH SHYAM SHAMSHERY, J.**

1. Heard Mr. Shashi Nandan and Mr. Nipun Singh, learned Senior Advocates assisted by Sri Shiv Pratap Singh Rathore, learned counsel for the petitioner and Mr. Shiv Kumar Singh, learned counsel appearing for Muzaffarnagar Development Authority.
2. The impugned proceedings are arising out of an application filed by the petitioner for sanction of map, which requires a report from the concerned Sub Divisional Magistrate. A report was submitted that land in question was purchased by petitioner after going through the number of hands though chain was found complete and sale deed is still in existence since sale deed and till date sale deed is not being set aside till date.
3. According to the report, concerned Sub Divisional Magistrate found that in given circumstances, was the ownership of the petitioner is under doubt and therefore by the impugned order dated 16.03.2026 passed by Commissioner, Saharanpur, the affidavit filed by the petitioner was rejected and the appeal thereof was also rejected by an order dated 15.09.2025 passed by the respondent authority, therefore, the present writ petition.
4. The Court has asked a query whether in given circumstances under the proceedings of to sanction map, whether the authority concerned could dispute the ownership or take a view that ownership was dispute, no specific answer is being given by counsel for the State and counsel for the

Development Authority except that it was clearly barred by law and therefore, the Court takes note of a judgment passed by the Coordinate Bench of this Court and on which, Mr. Nipun Singh, learned Senior Counsel for the petitioner has placed reliance and its paragraph no.5 being relevant is reproduced hereinafter:-

*"5. There is no doubt that the authority can in appropriate cases revoke or cancel the permission as incidental or supplemental to the power of grant because the authority is vested with the power of regulation of building operations within its area. If the authority has granted permission to build according to the building regulations, and there is no violation of the grant of sanction or misrepresentation in respect of any fact, the authority cannot exercise its power of cancellation. But in the present case the petitioners were not challenging the permission granted to the opposite party No. 4 on the ground that the permission had been obtained in violation of the building regulations, or the construction was being raised in violation of the conditions of the grant. In fact the petitioners were objecting to the raising of construction by opposite party No. 4 on the ground of title to make constructions. The claim made by the petitioners goes out of the purview of the authority which is not concerned with the dispute of title between the co-owners or co-tenants. The authority is merely concerned to enforce building regulations and regulate the building activities within its area. The disputes of title to the land are to be decided by a competent court of civil jurisdiction. Whoever raised the construction on the basis of the sanction granted by the authority under the Urban Development Act, does it on his own risk and cost. But the authority is not concerned to see whether one is entitled on the basis of his title to the land or the property. The authority is concerned to see only prima facie the right of the applicant seeking permission to raise construction and if the authority is satisfied and granted permission in accordance with the regulations, the person aggrieved against the sanction can approach the competent civil court for adjudication of the title as well as for interim prohibitory injunction for stopping the construction. The Authority has no jurisdiction to entertain any objection of any outsider against the sanction of the building plan. The Act conceives the grievance of the applicant who is either granted permission or is refused permission. A provision of an appeal has been*

*made in a case where the permission is not granted or refused, but if the permission has been granted, no appeal shall lie against the sanction. In view of these provisions the question of making any representation or treating an appeal which is not otherwise maintainable cannot arise. The Division Bench of this Court merely stated that representation against sanction can be filed if legally permissible. I find that in view of the express provisions of the Act no representation is legally "permissible particularly by a third person who could neither be granted, nor refused permission as it was not sought by him. It was only the applicant who had asked for permission to raise construction. In an appropriate situation he could make a representation even after grant of the permission to a building."*

5. Mr. Shiv Kumar Singh, learned counsel appearing on behalf of complainant submits that as many as five suits have been filed wherein validity of sale deed is also in question and in one of the suit, an order of injunction was passed on 09.07.2024. However, it is only in limited to area 0.1540 which is the subject matter of Suit No.260 of 2024, the copy of the plaint is being placed on record during the argument. The order of injunction was not extended by an order dated 23.11.2024 passed in the said suit. However, it appears that by an order dated 10.02.2026 interim order is now being extended and the proceedings are merely *ex parte*.

6. In the aforesaid circumstances, Court finds that when the authority concerned has no jurisdiction to take a decision that the ownership of the property is disputed except if the land is either belongs to government of Gaon Sabha or subject matter of any proceedings and in case there is a private dispute, only consideration would be whether there is an order of injunction and as rightly pointed out when the impugned order was passed, there was no order of injunction though presently there is. In the aforesaid circumstances, there was no reason to reject the application for sanction the map and accordingly the appellate authority has also erred in law.

7. In the aforesaid circumstances, both the orders are set aside and the matter is remitted back to the Muzafarnagar Development Authority to pass a fresh order. If necessary the complainant may also hear. All the

parties are liberty to file certified copies of the plaint and the order passed therein.

8. With the aforesaid observations, this writ petition is **disposed of**.

**(Saurabh Shyam Shamschery,J.)**

**August 12, 2026**

A.N. Mishra