2026:AHC-LKO:61270-DB

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD LUCKNOW

PUBLIC INTEREST LITIGATION (PIL) No. - 560 of 2026

Pooja Devi .....Petitioners(s)

Versus

State of U.P. Through Secy. Revenue Lko And 10 Others .....Respondents(s)

Counsel for Petitioners(s)	:	Ashutosh Kumar Singh, Vijay Bahadur Singh
Counsel for Respondent(s)	:	C.S.C., Mohan Singh

<u>Court No. – 1</u> **Reserved on:-06.07.2026**
Delivered on:-01.09.2026

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

(Per: Rajan Roy, J.)

1. Heard.

2. On the day judgment was reserved, a personnel from reporting section was summoned to enquire as to how this petition has been placed before a Division Bench whereas the earlier petition filed by the same petitioner bearing P.I.L. No.847 of 2025 was placed before the Single Judge.

3. The officer informed that P.I.L. before the Single Judge lies in respect of encroachment on Gaon Sabha land. However, on being pointed out that the earlier writ petition was not for removal of the encroachment on Gaon Sabha land, he had submitted that it had incorrectly been sent to the learned Single Judge, it should have been placed before the Division Bench.

4. We now proceed to consider the matter.

5. After hearing the parties what comes out is that the petitioner had earlier filed a PIL No.847 of 2025 which was disposed of on 20.08.2025 in the following terms:-

> *"1. Heard learned counsel for the petitioner as well learned Standing Counsel for the State-respondent(s) and perused the material brought on record.*
>
> *2. The present petition has been filed by the petitioner with the following prayer:*
>
> *"(i) to issue a writ, order or direction in the nature of Mandamus commanding the opposite parties concerned, initiate steps to construct the Khadanja on Chakmarg having land Gata No. 1268, 1275, 1277, 1279 Village Dehli Bazar, Pargana Brausha, Tahsil-Baldirai, District-Sultanpur, within specified time and to protect the common rights of villagers, in the interest of justice."*
>
> *3. Learned Standing Counsel, based upon instructions, states that out of the five cases instituted, one case is pending for adjudication and in respect of the other four cases, the appeal has been preferred, which has been pending.*
>
> *4. In view of the said statement, the present petition is disposed of with a direction to the authority concerned to conclude the pending proceedings with all expedition within the time, as prescribed in the statute i.e. 90 days, in accordance with law. The appellate authority shall also conclude and decide the appeal within a period of 90 days, in accordance with law. "*

6. As would be evident from a reading of the above quoted order, at the time of disposal of the said writ petition only one of the proceedings under section 67 of the UP Revenue Code, 2006 was pending. Four appeals were pending arising out of remaining four cases. Now, all the cases having been decided, proceedings for removal of encroachment/eviction are in process as there is no impediment in this regard. There is a procedure prescribed for the same under Para 460 of the UP Revenue Court Manual as informed by Mrs. Anupama Singh, Additional Chief Standing Counsel which is being followed.

7. It appears that in the garb of the relief prayed, execution of the orders passed under Section 67 of the U.P. Revenue Code, 2006 is being sought, as, the chak marg cannot be constructed or repaired as the case may be unless the encroachment is removed.

8. On being confronted, counsel for the petitioner submitted that if the procedure prescribed under Para 460 of the U.P. Revenue Code Manual is initiated it will be a long drawn process. This has compelled us to see the procedure for implementation of order passed under relevant statute and rules

9. We have perused Section 67 which reads as under:-

> *"**67. Power to prevent damages, misappropriation and wrongful occupation of Gram Panchayat property.-(1)** Where any property entrusted or deemed to be entrusted under the provisions of this Code to a Gram Panchayat or other local authority is damaged or misappropriated, or where any Gram Panchayat or other authority is entitled to take possession of any land under the provisions of*

this Code and such land is occupied otherwise than in accordance with the said provisions, the Bhumi Prabandhak Samiti or other authority or the Lekhpal concerned, as the case may be, shall inform the Assistant Collector concerned in the manner prescribed.

(2) Where from the information received under sub-section (1) or otherwise, the Assistant Collector is satisfied that any property referred to in sub-section (1) has been damaged or misappropriated, or any person is in occupation of any land referred to in that sub-section in contravention of the provisions of this Code, he shall issue notice to the person concerned to show cause why compensation for damage, misappropriation or wrongful occupation not exceeding the amount specified in the notice be not recovered from him and why he should not be evicted from such land.]

(3) If the person to whom a notice has been issued under sub-section (2) fails to show cause within the time specified in the notice or within such extended time as the Assistant Collector may allow in this behalf, or if the cause shown is found to be insufficient, the [Assistant Collector] may direct that such person shall be evicted from the land, and ***may, for that purpose, use or cause to be used such force as may be necessary,*** *and may direct that the amount of compensation for damage or misappropriation of the property or for wrongful occupation as the case may be, be recovered from such person as arrears of land revenue.*

(4) If the [Assistant Collector] is of opinion that the person showing cause is not guilty of causing the damage or misappropriation or wrongful occupation referred to in the notice under sub-section (2), he shall discharge the notice.

(5) Any person aggrieved by an order of the [Assistant Collector] under Sub-section (3) or Sub-Section (4), may within thirty days from the

date of such order, prefer an appeal to the Collector.

(6) Notwithstanding anything contained in any other provisions of this Code, and subject to the provisions of this section every order of the Sub-Divisional Officer under this section shall, subject to the provisions of sub-section (5) be final.

(7) The procedure to be followed in any action taken under this section shall be such as may be prescribed.

Explanation. - For the purposes of this section, the word "land" shall include the trees and building standing thereon."

10. As per sub section 7 of section 67, <u>the procedure to be followed in any action taken under this section shall be such as may be prescribed</u>. The term 'prescribed' referred in sub section (7) of section 67 has been defined in Section 4(33A) of UP General Clauses Act, 1904 as under;

"Prescribed" shall mean prescribed by rules made under the Act in which the word occurs;

11. In view of the above, we may refer to the U.P. Revenue Code Rules, 2016 made under Section 233 of U.P. Revenue Code, 2006, specifically Rule 67 thereof which is relevant, and reads as under;

*"**67. Further inquiry by Assistant Collector (Section 67).** (1) On receipt of the information under rule 66, or on facts otherwise coming to his knowledge, the Assistant Collector may make such inquiry as he deems*

proper and may obtain further information regarding the following points:-

(a) full description of damage or misappropriation caused or the wrongful occupation made with details of village, plot number, area, boundary, property damaged or misappropriated and market value thereof;

(b) full address along with parentage of the person responsible for such damage, misappropriation or wrongful occupation;

(c) period of wrongful occupation, damage or misappropriation and class of soil of the plots involved;

(d) value of the property damaged or misappropriated calculated at the circle rate fixed by the Collector and the amount sought to be recovered as damages.

(2) The Assistant Collector shall thereafter proceed to take action under section 67(2) and for that purpose issue a notice to the person concerned in R.C. Form-20 to show cause as to why compensation for damage, misappropriation or wrongful occupation not exceeding the amount specified in the notice be not recovered from him and why he should not be evicted from such land.

(3) If the notice referred to in section 67(2) remains un-complied with or if the cause shown by the person concerned is found to be insufficient, the Assistant Collector may direct by order that-

(a) such person be evicted by using such force as may be necessary; or

(b) the amount of compensation for damage or wrongful occupation ordered by the Assistant Collector, if not paid in specified time, may be recovered as arrears of land revenue, including the amount of expenses referred to in sub-rule (3).

(4) The amount of damages sought to be recovered and the expenses of execution of the order shall be specified in such notice, which shall be determined in the following manner:-

(a) In the case of damage or misappropriation, the amount of damages shall be assessed at the prevailing market rate.

(b) In the case of unauthorized occupation of any land, the amount of damages shall be the amount equal to the five percent of the market value of the land calculated at the circle rate fixed by the Collector for each year of unauthorized occupation.

(c) The expenses of execution of the order shall be assessed on the basis of one day's pay and allowances payable to the staff deputed.

(5) If the person wrongfully occupying the land has done cultivation therein, he may be allowed to retain possession thereof until he has harvested the crops subject to the payment by him of the amount equal to the five percent of the market value of the land calculated as per the circle rate which shall be credited to the Consolidated Gaon Fund or the Fund of the local authority other than the Gram Panchayat as the case may be. If the person concerned does not make the payment of the aforesaid amount within the period specified in the notice in R.C. Form-20, the possession of the land shall be delivered to the Land Management Committee or the local authority, as the case may be, together with the crop:

Provided that where such person again wrongfully occupies the same land or any other land within the jurisdiction of the Gram Panchayat or the local authority as the case may be, he shall be evicted therefrom forthwith and possession of the land vacant or together with the crop thereon shall be delivered to the Land Management Committee or the local authority as the case may be.

(6) The Assistant Collector shall make an endeavor to conclude the proceeding under section 67 of the Code

within the period of ninety days from the date of issuance of the show cause notice and if the proceeding is not concluded within such period the reasons for the same shall be recorded.

(7) Nothing in sub-rule (5) shall debar the Land Management Committee or the local authority as the case may be from prosecuting the person who encroaches upon the same land second time in spite of having been evicted under the Code or the rules, under section 447 of the Indian Penal Code, 1860.

(8) There shall be maintained in the office of each Collector a register in R.C. Form-21 showing details of the amount ordered to be realized on account of damages and compensation awarded in proceedings under section 67.

(9) A similar register shall also be maintained by each tahsildar showing realization of damages and compensation awarded in such proceeding. The entries made in the register maintained at tahsil shall be compared with the register maintained by the Collector to ensure accuracy of the entries made therein.

(10) A progress report showing realization of damages and compensation awarded in proceedings under section 67 shall be sent to Board of Revenue, U.P., Lucknow by the fifteenth day of April and October every year. The Board after consolidating the report so received from the districts shall send it to the Government.

(11) Nothing in rules 66 and 67 shall debar any person from establishment of his right, title or interest in a court of competent jurisdiction in accordance with the law for the time being in force in respect of any matter for which any order has been made under section 67 of the Code."

12. On a bare reading of Section 67 of U.P. Revenue Code, 2006 and Rule 67(3) of U.P. Revenue

Code Rules, 2016, it is evident that if after notice, the noticee fails to show cause or if the cause shown is found to be insufficient, the Assistant Collector may direct that such person shall be evicted from the land, and may, for that purpose, use or cause to be used such force as may be necessary, and may direct that the amount of compensation for damage or misappropriation of the property or for wrongful occupation, as the case may be, be recovered from such person as arrears of land revenue.

13. Section 67(3), thus on the one hand speaks of direction to be issued for execution and for recovery of compensation for damage but at the same time it also provides the mode of eviction that is by "use of such force as may be necessary"

14. When we peruse Rule 67 thereof quoted herein above, sub Rule 5 of Rule 67 is relevant in this regard, according to which, if the person wrongfully occupying the land has done cultivation therein, he may be allowed to retain possession thereof until he has harvested the crops subject to the payment by him of the amount equal to the five percent of the market value of the land calculated as per the circle rate which shall be credited to the Consolidated Gaon Fund or the fund of the local authority other than the Gram Panchayat as the case may be. If the person concerned does not make the payment of the aforesaid amount within the period specified in the notice in R.C. Form-20, the possession of the land shall be delivered to the Land management Committee or the local authority, as the case may be, together with the crop. Provided that where such person

again wrongfully occupies the same land or any other land within the jurisdiction of the Gram Panchayat or the local authority as the case may be, he shall be evicted therefrom forthwith and possession of the land vacant or together with the crop thereon shall be delivered to the Land Management Committee or the local authority as the case may be.

15. It is implicit in the aforesaid provisions of Rule 67(5) that if no cultivation has been done on the land being wrongfully occupied by the concerned person then possession thereof shall be delivered to the Land Management Committee or the local authority as the case may be whereas if the cultivation has been done then the procedure as prescribed in sub Rule 5 shall be followed. The handing over of possession or eviction, as per Section 67(3) can be done if necessary by use of such force as may be necessary. Both Section 67(3) and Rule 67(5) have to be read conjointly.

16. A conjoint reading of sub Section 3 of Section 67 and sub Rule 3 of Rule 67 along with sub Rule 5 of Rule 67 leaves no doubt that wrongful occupant can be evicted by using force as may be necessary if he himself does not vacate the land, however, If there is crop existing on the land then the procedure prescribed under sub Rule 5 of Rule 67 is to be followed.

17. It has been contended that the order passed under section 67 (3) is to be executed formally by initiating proceedings for execution under paragraph 460. The U.P. Revenue Court Manual is applicable to the proceedings under U.P. Revenue Code, 2006 by virtue of sub Section 3 of Section 234 which reads as under;

> *"**234 (3)** The Revenue Court Manual, the Land Records Manual, Collection Manual and Land Revenue (Survey and Record Operation) Rules, 1978, in force on the date of commencement of this Code, shall continue to remain in force, to the extent they are not inconsistent with the provisions of this Code, until amended, rescinded or repealed by any regulations made under this section. "*

18. Paragraph 460 of the UP Revenue Court Manual reads as under;

> ***"460. Execution of decree and order. (****1) The decree or order passed under the Code or the rules framed under the Code shall, mutatis mutandis, be executed in accordance with the provisions of Chapter V.*
>
> *(2) The Assistant Collector/Tehsildar passing the order for eviction or recovery of any amount of damages or compensation under the provisions of Section 67 of the Code shall get the order executed and in execution of the order he shall, mutatis mutandis, follow the procedure laid down in Paragraphs 137 and 138."*

19. It is necessary to mention that Para 431 to 496 of the Revenue Court Manual forming part of Part V Chapter XLIII have been inserted by notification dated 27.12.2016 which has been published in the Gazette on the same date. Paragraph 460(1) mentions that the decree or order passed under the Code or the rules framed under the code shall, *mutatis mutandis,* be executed in accordance with the provisions of Chapter V.

20. When we peruse sub paragraph 2 of paragraph 460 it provides that the Assistant Collector/ Tehshildar

passing the order for eviction or recovery of any amount of damages or compensation under the provisions of section 67 of the code shall get the order executed and in execution of the order he shall, *mutatis mutandis,* follow the procedure laid down in Paragraphs 137 and 138. Paragraph 137 & 138 of the U.P. Revenue Court Manual which are part of Part B Chapter V and have been made by the Board vide G.O. dated 13.12.1974, are as under:-

> ***"137. Examination of applications by reader-****The reader of each Court shall examine all applications for execution presented to that Court and shall report without delay whether such of the requirements of Rules 11-14 of order XXI of the First Schedule of the Civil Procedure Code, 1908 (Act V of 1908), as may be applicable, have been complied with.*
>
> ***138. Certificate of payment out of Court-****Where any money payable under a decree of any kind is paid out of Court or the decree is otherwise, adjusted in whole or in part to the satisfaction of the decree-holder the decree-holder shall certify such payment or adjustment to the executing Court in the form given below. Such certificate need not be stamped. If however, the certificate accompanies a formal written application the application shall be stamped but the fee shall not be charged as costs against the judgment-debtor,*
>
> *In the Court of the ………….. of ………………..Decree holder*
> *vs.*
> *………………… Judgment-debtor Suit No………….. of 19….*
> *Execution of decree case No…………….*
> *Certificate by decree-holder under Rule 2(1) of Order XXI of the Civil Procedure Code, 1908 (Act V of 1908).*

I………………. decree-holder certify to the Court payment of adjustment in the following terms of the amount of Rs…………….. the above case by ……….. on the ……….

Date…….. *Decree-holder*

टिप्पणियाँ -यह देखना राजस्व न्यायालयों का कर्तव्य है कि निष्पादन (इजराय) के मुकदमों की उपेक्षा नहीं की जाती अथवा वे व्यर्थ बढ़ायें नहीं जाते। उनको उसी सावधानी एवं नियमितता से निस्तारित किया जाना चाहिये जैसे कि मूल वाद। किन्तु, सतर्कता यह बरतनी चाहिये कि डिक्रियों के निष्पादन में जारी की गई समस्त आदेशिकाओं, वारन्टों इत्यादि की तामील के लिये पर्याप्त समय दिया जाता" है, क्योंकि आदेशों को निष्पादित करने का निष्फल प्रयत्न अंततः केवल विलम्ब की ओर ले जाता है।

21. So far as para 137, which is referred in para 460 of the U.P. Revenue Court Manual is concerned, it deals with examination of applications by reader as to whether such applications for execution fulfills the requirements of Rules 11-14 of Order XXI of the First Schedule of the Civil Procedure Code 1908, as maybe applicable have been complied with or not. In fact, paras 137 and 138 fall in Chapter V of the U.P. Revenue Court Manual under the heading-**'rules relating to Execution of Decree in Revenue Courts'**. Para 138 deals with issuance of a certificate of payment out of Court.

22. Before proceeding further we may mention that the proceedings under Section 67 of the Code, 2006 are themselves summary in nature which is evident from Rule 192 of the UP Revenue Code Rules, 2016. Section 225-A of UP Revenue Code 2006 which relates to summary proceedings and their procedures reads as under:-

*"**225-A Determination of questions in summary proceeding.-**Notwithstanding anything contained in other provisions of this Code, all the questions arising for determination in any summary proceeding under this Code shall be decided upon affidavits, in the manner prescribed:*

> *Provided that if Revenue Court or Revenue Officer is satisfied that the cross of examination of any witness, who has filed affidavit, is necessary, it or he may direct to produce the witness for such cross examination."*

23. In view of section 225A of the U.P. Revenue Code, 2006 read with Section 192 thereof, all questions arising in the summary proceedings under section 67 are to be decided upon affidavits in the manner prescribed provided if the Revenue Court or Revenue Officer is satisfied that the cross-examination of any witness, who has filed affidavit, is necessary, it or he may direct to produce the witness for such cross-examination. Now, the word 'in the manner prescribed' used in Section 225A would mean the manner prescribed in the Rules in view of Section 4 (33A) of the U.P. General Clauses Act, 1954. This takes us back to Rule 192(4) of the Rules, 2016, according to which, procedure for disposal of summary proceedings is contained in Revenue Court Manual. Needless to say that Rule 192 of the Rules, 2016 and provisions of Revenue Court Manual, are subservient to Section 225-A which is a provision in the principal Act (Code, 2006), nevertheless, Chapter XLVII (Para 472 to 479) of the U.P. Revenue Court Manual deals with procedure to be followed in summary proceedings and is applicable, subject to the provisions of the UP Revenue Code, 2006, and the Rules made thereunder in view of Section 234(3) of the Code, 2006, as already referred. Para 478 of the UP Revenue Court Manual is on same lines as the proviso to Section 225A.

24. In this context, we may also refer to Section 214 of the U.P. Revenue Code, 2006 which reads as under:-

> *"214. Applicability of Code of Civil Procedure, 1908 and Limitation Act, 1963.- Unless otherwise expressly provided by or under this Code, the provisions of the Code of Civil Procedure, 1908 and the Limitation Act, 1963 shall apply to every suit, application or proceedings under this Code. "*

25. The words- **'Unless otherwise expressly provided by or under this Code'** used in Section 214 of the Code, 2006 are important, as, the provisions of Code of Civil Procedure, 1908 are applicable to a suit, application or proceedings, subject to the aforesaid condition. Now, the aforesaid words need to be considered. We have already referred to Section 192 and 225A of the UP Revenue Code 2006 which leave no manner of doubt that the proceedings under Section 67 have to be summary proceedings, meaning thereby, they are not to be regular and long drawn proceedings where evidence is required to be adduced extensively in the manner required in a suit proceedings or proceedings which are not summary. We may once again refer to section 192(4), which categorically mentions that the procedure for disposal of summary proceedings, including proceedings under Section 67 of the Code, 2006, is contained in Chapter XLVII of the Revenue Court Manual. Thus, there are specific provisions and a complete mechanism provided in the Code, 2006, Rules of 2016 made thereunder and Revenue Court Manual as

to how these summary proceedings under U.P. Revenue Code, 2006, including Section 67, are to be conducted which necessarily excludes the application of the provisions of C.P.C. with regard to such summary proceedings, meaning thereby, it excludes the summary procedure prescribed in Order XXXVII of the C.P.C. 1908 in so far as it is inconsistent with the provisions and procedure prescribed in this regard under the Code, 2006 and Rules made thereunder.

26. We may in this context also refer to Rule 186 of the UP Revenue Code Rules 2016 which reads as under:-

> *"186. Non-applicability of CPC (Section 214)*
> *The provisions of the Code of Civil Procedure, 1908 shall not be applicable to the summary proceedings under the Code or these rules, but the principles enshrined in the Code of Civil Procedure, 1908 and the principles of natural justice shall be observed in the disposal of such proceedings."*

27. In view of Rule 186 though the provisions of Order XXXVII C.P.C., 1908 are not applicable *Stricto sensu* to summary proceedings under the Code, 2006, the principles contained therein can be applied. The principles contained in CPC can also be applied only to the extent they are not inconsistent with the Code, 2006 and Rules made thereunder including the Revenue Court Manual in view of Rule 192(4). This is the only permissible understanding of the legal position on a conjoint reading of Section 225A, Rule 192, Section 214 Rule 186 and Chapter XLVII of the Revenue Court Manual, referred above. This is evident from the

discussion already made, the scheme of the Code, 2006 and Rules made thereunder.

28. From the above discussion, it is evident beyond any doubt that proceedings under Section 67 of the Code, 2006 are summary in nature.

29. Coming back to the question of enforcement or execution of orders passed under Section 67, it is apparent that the original proceedings themselves being summary in nature, the proceedings for execution/ enforcement of any orders passed therein, cannot be long drawn certainly not on the lines as envisaged under Order XXI of the Code of Civil Procedure, 1908.

30. The proceedings under Section 67 of the Code, 2006 not being akin to regular suit proceedings but being summary in nature, it is highly incongruous that the long drawn procedure prescribed in Order XXI of the Civil Procedure Code 1908 should be followed for its execution of orders passed thereunder.

31. Para 137 of the UP Revenue Court Manual speaks of examination as to whether the application for execution complies the requirements of Rules 11-14 of Order XXI of the First Schedule of the Civil Procedure Code 1908 as may be applicable. Rules 11-14 of Order XXI Civil Procedure Code, 1908 in its application to the State of U.P. reads as under:-

> *"11. Oral application.—(1) Where a decree is for the payment of money the Court may, on the oral application of the decree-holder at the time of the passing of the decree, order immediate execution thereof by the arrest of the judgment-debtor, prior to the preparation of a warrant if he is within the precincts of the Court.*

(2) Written application.—Save as otherwise provided by sub-rule (1), every application for the execution of a decree shall be in writing, signed and verified by the applicant or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case, and shall contain in a tabular form the following particulars, namely:—

(a) the number of the suit;

(b) the names of the parties;

(c) the date of the decree;

(d) whether any, appeal has been preferred from the decree;

(e) whether any, and (if any) what, payment or other adjustment of the matter in controversy has been made between the parties subsequently to the decree;

(f) whether any, and (if any) what, previous applications have been made for the execution of the decree, the dates of such applications and their results;

(g) the amount with interest (if any) due upon the decree, or other relief granted thereby, together with particulars of any cross-decree, whether passed before or after the date of the decree sought to be executed;

(h) the amount of the costs (if any) awarded;

(i) the name of the person against whom execution of the decree is sought; and

(j) the mode in which the assistance of the Court is required whether,—

(i) by the delivery of any property specifically decreed;

(ii) by the attachment, or by the attachment and sale, or by the sale without attachment, of any property;

(iii) by the arrest and detention in prison of any person;

(iv) by the appointment of a receiver;

(v) otherwise, as the nature of the relief granted may require.

(3) The Court to which an application is made under sub-rule (2) may require the applicant to produce a certified copy of the decree.

11A. Application for arrest to state grounds.—Where an application is made for the arrest and detention in prison of the judgment-debtor, it shall state, or be accompanied by an affidavit stating, the grounds on which arrest is applied for.

12. Application for attachment of movable property not in judgment-debtor's possession.—Where an application is made for the attachment of any movable property belonging to a judgment-debtor but not in his possession, the decree-holder shall annex to the application an inventory of the property to be attached, containing a reasonably accurate description of the same.

13. Application for attachment of immovable property to contain certain particulars.—Where an application is made for the attachment of any immovable property belonging to a judgment-debtor, it shall contain at the foot—

(a) a description of such property sufficient to identify the same and, in case such property can be identified by boundaries or numbers in a record of settlement or survey, a specification of such boundaries or numbers; and

(b) a specification of the judgment-debtor's share or interest in such property to the best of the belief of the applicant, and so far as he has been able to ascertain the same.

14. Power to require certified extract from Collector's register in certain cases.—Where an application is made for the attachment of any land which is registered in the office of the Collector, the Court may require the applicant to produce a certified extract from the register of such office, specifying the persons registered as proprietors of, or as possessing any transferable interest in, the land or its revenue, or as liable to pay revenue for the land, and the shares of the registered proprietors. "

32. Thus, these Rules of Order XXI CPC are applicable by virtue of Para 137 of Revenue Court Manual only for processing the application for execution, nothing more. At best, we can say that on an application being filed for execution / enforcement of an order under section 67(3) of U.P. Revenue Code 2006, it shall merely be processed in terms of para 137 and nothing more. Reference to para 137 in Para 460(2) is for a very limited purpose as aforesaid. The aforesaid rules are procedural in nature and by themselves canno not lead to a conclusion that long drawn proceedings under Order XXI CPC are to be followed for execution / enforcement of an order passed under section 67(3) of the UP Revenue Code 2006 read with the Rule 67(3) of the UP Revenue Code rules 2016.

33. As far as para 138 is concerned, apparently, the same does not have any application for execution of an order passed under Section 67(3) referred hereinabove.

34. Applicability of Para 137 and 138 of the U.P. Revenue Court Manual itself is subservient to the UP Revenue Code 2006 as is evident from Section 234(3) thereof which clearly says that the UP Revenue Court Manual shall apply only in so far as it is not inconsistent with the provisions of the UP Revenue Code, 2006. By the same logic, if there are rules made under the Code, 2006 which deal with the subject of enforcement or execution of an order passed under Section 67(3) then those Rules will prevail over the provisions of the UP Revenue Court Manual and the latter will have to give way to the Rules made under the Code 2006 also.

35. In this regard, we have already referred to Section 67(3) which not only contains the provision under which the directions or orders for eviction or for compensation for damages etc are to be passed but also contains an observation- **'and may, for that purpose, use or cause to be used such force as may be necessary'** meaning thereby, in the event, the eventualities mentioned in sub-section 3 of section 67 are satisfied, for carrying out the directions/ orders passed there under, the officer or revenue court passing the order may for that purpose that is for the purposes of eviction, use or cause to be used such force as may be necessary, therefore, the substantive provision contained in Section 67(3) itself provides the mechanism for execution/ enforcement of the orders passed thereunder.

36. As already stated, the UP Revenue Court Manual applies only to the extent not inconsistent with the provisions of the Code, 2006.

37. In this very context, we may again refer to the Section 67(3) with regard to the other measure which can be directed or ordered, apart from eviction, that is, compensation for damage or misappropriation of the property or for wrongful occupation, as the case made be. Here again, the substantive provision contained in section 67(3), apart from permitting such a direction also mentions the mechanism for its recovery by saying that it can be recovered from such person as arrears of land revenue, meaning thereby, a mechanism for execution of such an order has also been provided in Section 67(3) itself, which is, by recovery of the

compensation/ damages awarded under Section 67(3) as arrears of land revenue.

38. Further, the mechanism for recovery as arrears of land revenue is prescribed in the UP Revenue Code 2006 itself in Chapter XII. Section 170 deals with process for recovery of arrears, Section 171 deals with arrest and detention, Section 172 deals with attachment and sale of movable property, Section 174 deals with attachment of holdings, so on and so forth, meaning thereby, an entire mechanism is prescribed for collection of land revenue in Chapter 12, from Section 163 to 205, all of which will apply in the matter of recovery of compensation awarded under section 67(3) as arrears of land revenue.

39. We may in this regard refer to Section 205 of the Code, 2006 which is part of Chapter XII and reads us under:-

> *"205. Applicability of the Chapter.- The provisions of this Chapter shall apply to the recovery of all arrears of land revenue and all other sums recoverable as an arrear of land revenue whether due before or after the commencement of this Code.* "

40. The aforesaid provision makes it amply clear that the provisions of Chapter XII shall apply to the recovery of all arrears of land revenue and all other sums recoverable as an arrear of land revenue whether due before or after the commencement of the Code, 2006, meaning thereby, it includes the recovery of compensation/ damages etc. ordered under section 67(3).

41. Thus, Section 67(3) when read with other provisions of the U.P. Revenue Code, 2006 and the

Rules, 2016, they themselves prescribe a mechanism for enforcement and execution of the orders passed under Section 67(3).

42. We may in this context also refer to Rule 67 of the U.P. Revenue Code Rules, 2016 which has already been quoted earlier. We may specifically refer to sub-Rule 3(b) of Rule 67 which also provides for recovery of the amount of compensation for damage etc. ordered by the Assistant Collector, if not paid in specified time, may be recovered as arrears of land revenue, including the amount of expenses referred to in sub-rule (3). Sub-Rule (4) of Rule 67 is also relevant in this regard. We have already dealt with sub-Rule (5) of Rule 67 which also provides a mechanism for eviction when read conjointly with Section 67(3), as already discussed.

43. We have also stated that UP Revenue Court Manual will come into the picture only in so far as it is not inconsistent with the provisions of the UP Revenue Code 2006 which will necessarily includes the provisions of Rules, 2016 made thereunder.

44. In the context of recovery of damages etc, the provisions of UP Revenue Court Manual in so far as they are consistent with Chapter XII of U.P Revenue Code 2006 and the corresponding Rules of 2016 may be relevant, but apart from it, so far as the removal of encroachment/ eviction is concerned, the same can be done in the circumstances as mentioned in section 67(3) of the Code, 2006 and Rule 67 of the Rules, 2016, itself.

45. There is no dispute that the orders passed in summary proceedings under Section 67 of the U.P. Revenue Code, 2006 are enforceable/ executable by the

very authority which has passed such order. It is provided in Section 67(3) of the Code, 2006 and Para 460 of the Revenue Court Manual.

46. In fact, there is nothing in U.P. Revenue Code, 2006 or Rules or the U.P. Revenue Court Manual which may suggest that long drawn execution proceedings as are prescribed under Order XXI CPC, 1908 are to be held for execution of an order passed under Section 67(3) of the U.P. Revenue Code, 2006 merely because in para 137 of the U.P. Revenue Court Manual, Rules 11-14 of Order XXI CPC are mentioned, as, these rules were mentioned in para 137 only for the purpose of processing the application filed under Section 460 for execution of the order passed under Section 67 and not for any other purpose. The aforesaid provision does not attract Order XXI CPC in its entirety for obvious reasons as discussed hereinabove and such execution will have to be in terms of the provisions of Section 67(3) read with Rule 67(3) sub-Rule(5) etc. of the Rules, 2016, as discussed.

47. In fact, the provisions of Section 214 of the Code, 2006 cannot be pressed into service to adopt a long drawn procedure of execution in view of a mechanism for execution having been provided for execution of orders passed in summary proceedings under Section 67 in the Code, 2006 and the Rules of 2016 itself. Order 21 CPC cannot be applied overriding the provisions for such execution as already contained in the Code, 2006 and Rules, 2016. Provisions of Revenue Court Manual are also subservient to the Code & Rules. From the Scheme of the Code, 2006 and the Rules of 2016 made thereunder, the intent of Legislature is clear

that the proceedings for execution/ enforcement of an order passed in summary proceedings under Section 67 should not be long drawn proceedings such as the one under Order 21 C.P.C.

48. From what has been noticed by us hereinabove, what comes out is that the application of para 137 for enforcement and execution of any order passed under Section 67(3) is very limited that too only to the extent of processing the application for execution and nothing more. Para 138 in fact does not have any application as it is inconsistent with the procedure already prescribed in the UP Revenue Code 2006 and the Rules of 2016 which prescribe for recovery of the compensation as arrears of land revenue.

49. In fact, the State Government would be better advised to revisit para 460 of the UP Revenue Court Manual to make it consistent with the provisions of the UP Revenue Code, 2006 and Rules 2016 as regards enforcement of orders passed under Section 67(3) as discussed hereinabove. This is for the reason, apparently, the said provision, which, in fact, has been inserted, after coming into force of the UP Revenue Code, 2006, is itself inconsistent with the Code, 2006 and the Rules made thereunder and incongruous to it.

50. In view of the above discussion, enforcement/ execution of any order passed under Section 67(3) is to be done in terms of Section 67(3) of the Rules, 2016 read with Chapter XII of the U.P. Revenue Code, 2006 and the corresponding rules of 2016 as already discussed. Para 460, 137 and 138 fo the U.P. Revenue Court Manual have a very limited application may be to

the extent of filing of an application for enforcement/ execution and nothing more. The proceedings for execution/ enforcement of an order passed under Section 67(3) cannot be long drawn as envisaged under Order XXI CPC, 1908.

51. It was necessary to clarify the aforesaid legal position as the contention of the petitioner's counsel to justify the filing of writ petition, which in a sense was for execution of such an order, was, that, if an execution application is filed under Section 460 it would be a long drawn process similar to the one envisaged under Order XXI CPC. This misunderstanding in the mind of the petitioner's counsel appears to have crept in only on account of the language used in para 460 read with 137 and 138, however, now that we have clarified the legal position, the confusion, if any, should lay at rest.

52. Accordingly, the petition is **disposed of** with liberty to pursue the remedies prescribed for execution of orders passed under Section 67 of the Code, 2006.

53. Let a copy of this judgment be sent to Additional Chief Secretary/ Principal Secretary (Revenue), Government of U.P., Lucknow and the Legal Remembrancer, U.P. for necessary action.

[Manjive Shukla, J.] **[Rajan Roy, J.]**

1st September, 2026
akhilesh/Shanu