



2026:AHC:179965

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 20391 of 2017

Bhoorey Singh

.....Petitioner(s)

Versus

Additional Commissioner Judicial-I Aligarh And 8
Others

.....Respondent(s)

Counsel for Petitioner(s)	: Ashok Kumar Singh, Pratibha Singh, Priyanka Yadav, Sidh Nath Singh
Counsel for Respondent(s)	: C.S.C., Krishna Kant Singh, Manu Singh, Ram Sanahi Yadav, Ramesh Chandra Yadav, Ravi Prakash Singh, Suresh Singh

Court No. - 37

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Mr. Dharendra Yadav, learned counsel holding brief of Mr. S.N. Singh, learned Counsel for the petitioner, Mr. Ram Sanahi Yadav, learned Counsel for respondent no.4, learned Standing Counsel for State respondents and Mr. Krishna Kant Singh, learned Counsel for respondent- Land Management Committee.

2. Brief facts of the case are that agriculture allotment was made in favour of petitioner's father along with other person on 20.2.1987/ 24.2.1987 in respect to plot no. 624 which was recorded as banjar. The allotment was made due to participation of allottees in the family planning scheme of the Government. In pursuance of the allotment, allottees were recorded in the record initially as bhumidhar with non-transferable rights later on bhumidhar with transferable rights. The proceeding for cancellation under Section 198 (4) of U.P. Zamindari Abolition and Land Reforms Act, 1950 hereinafter referred to as U.P.Z.A. and L.R. Act was initiated on 5.8.2013 (after lapse of 26 years) on the private complaint which has resulted into cancellation of the aforementioned allotment in respect to plot no. 624 by Collector vide order dated 1.7.2015.

Revision under Section 333 of U.P.Z.A. and L.R. Act filed on behalf of the petitioner has been dismissed vide order dated 29.8.2016 hence this writ petition on behalf of the petitioner for the following relief:-

"i) Issue a writ, order or direction in the nature of certiorari to quashed the dated 29-08-2016 passed by respondent No.1 in Revision No. C-2016800868 of 2016 and order dated 01-07- 2015 passed by respondent No.2 in case No. 110 "Ramesh Babu Vs. Rajendra Singh and others" contents of Annexure No. 5 & 6 to this writ petition.

ii) Issue a writ, order or direction in the nature of mandamus stay the effect and operation of the orders dated 29-08-2016 passeć by respondent No.1 in Revision No. C-2016800868 of 2016 and order dated 01-07-2015 passed by respondent No.2 in case No. 110 "Ramesh Babu Vs. Rajendra Singh and others".

iii) Issue a writ, order or direction in the nature of mandamus direct to the respondents not to interfere in the peaceful possession of the petitioner of the disputed land of Gata No. 624."

3. This Court entertained the matter on 10.5.2017 and stayed the operation of the order dated 1.7.2015 and 29.8.2016.

4. In pursuance of the order dated 10.5.2017, counter affidavit has been filed by State as well as private respondents.

5. Learned Counsel for the petitioner submitted that the agriculture allotment was made in favour of the petitioner's father in the year 1987 accordingly petitioner's father was recorded over the plot in question as bhumidhar with transferable right. He submitted that cancellation proceeding has been initiated after 26 years and the aforementioned allotment has been cancelled in illegal and arbitrary manner. He submitted that allotment was made to petitioner's father along with others in view of participation in family planning scheme of the Government, as such, the allotment cannot be cancelled. He further submitted that revision filed by petitioner

has also been dismissed without considering the case as set up in revision. He further placed reliance upon the judgement of this Court reported in **2018 (140) RD 1 (Rishi Pal & Others Vs. State of U.P. & Others)** as well as judgement reported in **2018 ALL CJ 118 Jitendra Kumar Urf Gopal Vs. State of U.P. and others** in order to demonstrate that time barred cancellation proceeding cannot be initiated to cancel the allotment made in accordance with law.

6. On the other hand, learned Counsel for State submitted that plot in question was recorded as khalihan in the revenue record, as such, the nature of plot cannot be changed to banjar so there was no question of allotment of pond to anyone including petitioner's father. He further submitted that entry of the plot in question has been changed in illegal and arbitrary manner. He further submitted that the plot in question was recorded as khalihan in C.H. Form 45, as such, the provisions contained under Section 198 (6) of U.P.Z.A. and L.R. Act will not be applicable. He placed reliance upon the recent judgement of Hon'ble Apex Court passed in Civil Appeal No. 4633 of 2026 Babu Singh Vs. Consolidation Officer and others dated 21.4.2026 in support of his argument.

7. On the other hand, learned Counsel for respondent no.4 submitted that there is no illegality in the initiation of cancellation of proceeding in respect to the allotment made in the year 1987 as the plot in question was recorded as khalihan in the revenue record. He submitted that entry of the plot in question has been changed from khalihan to banjar in illegal and arbitrary manner, as such, no right will accrue in favour of petitioner on the basis of allotment made in the year 1987. He further submitted that no interference is required against the impugned orders passed by Collector as well as Additional Commissioner.

8. I have considered the arguments advanced by learned Counsel for the parties and perused the records.

9. There is no dispute about the fact that agriculture allotment was

made in favour of petitioner's father in the year 1987 and cancellation proceeding has been initiated in the year 2013. There is also no dispute about the fact that allotment of the petitioner's father has been cancelled by the Collector vide order dated 1.7.2015 and revision filed by petitioner has been dismissed by Additional Commissioner vide order dated 29.8.2016.

10. In order to appreciate the controversy involved in the matter, the perusal of Section 198 (6) of U.P.Z.A. and L.R. Act will be relevant which is as under:-

"198. Order of preference in admitting persons to land under sections 195 and 197.-

(6) Every notice to show cause mentioned in sub-section (5) may be issued-

(a) in the case of an allotment of land made before November 10, 1980 (hereinafter referred to as the said date), before the expiry of a period of [seven years] from the said date; and

(b) in the case of an allotment of land made on or after the said date, before the expiry of a period of [five years] from the date of such allotment or lease or upto November 10, 1987, whichever be later]."

11. The perusal of the paragraph nos. 7 to 13 of the judgement of this Court rendered in **Rishi Pal (Supra)** will also be relevant which are as under:-

"7. Having heard the learned counsel for the parties, I am of the view that the orders dated 1.6.2011 and 23.3.2012 cannot be sustained and are to be quashed.

8. The pattas were executed in the year 1992. Under Sub-section (6) of Section 195 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, the complaint which was filed in the year 2003-04 was barred by limitation by

almost six years.

9. Further, I hold that since the question of limitation goes to the very root of the matter, even though it was not agitated before the courts below, it can definitely be raised here in this Court. Section 3 of the Indian Limitation Act would also be relevant. The same is being reproduced here as under:

"Section 3.- Bar of limitation - (1) Subject to the provisions contained in sections 4 to 24 (inclusive), every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed, although limitation has not been set up as a defence.

(2) For the purpose of this Act, -

(a) A suit is instituted, -

(i) in an ordinary case, when the plaint is presented to the proper officer;

(ii) in the case of pauper, when his application for leave to sue as a pauper is made; and

(iii) in the case of a claim against a company which is being wound up by the Court, when the claimant first sends in his claim to the official liquidator;

(b) any claim by way of a set off or a counter-claim, shall be treated as a separate suit and shall be deemed to have been instituted -

(i) in the case of a set off, on the same date as the suit in which the set off is pleaded;

(ii) in the case of a counter-claim, on the date on which the counter-claim is made in Court;

(c) an application by notice of motion in a High Court is made

when the application is presented to the proper officer of that Court"

10. The question of limitation had to be therefore looked into by the Court even if the defendant /opposite party had not raised it.

11. Further, after the application which was filed by Hardas was dismissed for non prosecution then he alone could have filed the application for restoration. State was a party whose actions were being adjudicated upon in the complaint which was filed by Hardas. It could not therefore, have supported the restoration application of Hardas.

12. The writ petition is, therefore, allowed. The orders dated 1.6.2011 and 23.3.2012 are quashed.

13. It is made clear that this relief would be confined to the petitioners who had filed the instant writ petition."

12. This Court in the case reported in ***Jitendra Kumar Urf Gopal (Supra)*** has held that if allottee has been ordered to be recorded as bhumidhari with transferable right on the basis of allotment made in his favour, the bhumidhari right of the allottee cannot be taken away in spite of the fact that the allotment has been cancelled by the authorities. Paragraph nos. 8 and 9 of the judgement rendered by this Court in ***Jitendra K Umar Urf Gopal (Supra)*** will be relevant for perusal which are as under:-

"(8) Having heard the learned counsel for the parties, I am of the view that the impugned orders cannot be sustained. First of all, the notice was barred by limitation. Secondly, the petitioner by an order of the State had been declared a bhumidhar with transferable rights and the cancellation of the patta was of no consequence and thirdly the ground taken for the cancellation of the patta was also not in existence. If the period of limitation as is prescribed under the Act of 1950 expires then no notice can be issued even if there are irregularities in the patta. Further even if a suo motu notice is to be issued by the Collector then

also the question of limitation would arise and notices have to be issued well within the time prescribed by the 1950 Act.

(9). What is more, once when a tenure holder who was earlier granted a patta becomes a bhumidhar with transferable rights, then howsoever much the patta which was granted earlier is cancelled it would not affect his right as a bhumidhar and he shall continue to remain a bhumidhar over the land in question."

13. In the instant matter, the allotment was made in the year 1987 and in pursuance thereof, the allottee/ petitioner' father was recorded initially as bhumidhar with non-transferable right and later on bhumidhar with transferable right. It is further material to mention that the cancellation proceeding has been initiated in the year 2013 that is after about 26 years which is total abuse of process of law.

14. It is further material to mention that petitioner's father was allotted the plot in question due to participation of the petitioner's father in the family planning scheme of the Government, as such, the allotment cannot be cancelled on the basis of the highly time barred cancellation proceeding initiated by private complainant specially when the allottees have become bhumidhar with transferable right.

15. So far as the judgment of Apex Court passed in **Babu Singh (Supra)** is concern, the same will not be applicable in the peculiar facts and circumstances of this case which are as under:-

(i) The allottee became bhumidhar with transferable right on the basis of allotment made in his favour.

(ii) The allotment was made to allottee due to participation in the family planning scheme initiated by the Government himself.

(iii) In view of the ratio of law laid down by Apex Court in another recent judgement/ order dated 5.12.2025 Satnam

Singh Vs. State of U.P. and Others passed in civil appeal arising out of SLP (C) No. 9386 of 2024 in which construction of panchayat bhawan building on the plot recorded as rasta was protected by the Apex Court. Paragraph nos. 6 to 9 of the judgement of Apex Court passed in Satnam Singh (Supra) will be relevant for perusal which are as under:-

"IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.OF 2025

(Arising out of SLP (C) No. 9386 of 2024)

SATNAM SINGH

... APPELLANT

Versus

STATE OF U.P. AND ORS.

. RESPONDENTS

ORDER

6. Having regard to the fact that public money has been spent in construction of the Panchayat Bhawan and that even the alternate site, where it has been finally constructed, also belongs to the Gram Panchayat, it seems that no useful purpose will be served by sustaining the order of its dismantling/demolition. Such an order would instead amount to sheer wastage of public money.

7. Therefore, taking into consideration the concern expressed by the High Court regarding blockage of the public passage, we direct the Collector of the District to visit the village and see that the alternative passage provided by the Gram Panchayat, and to ascertain whether the same is functional

and meets with the prevailing requirements. In case it is found that the alternative passage is not workable, the Collector shall be at liberty to suggest any other alternative passage in consultation with the Panchayat and other authorities. It is clarified that such an alternative site must be workable without dismantling the Gram Panchayat Bhawan which has already been constructed. Ordered accordingly.

8. The appeal is allowed and the impugned judgment of the High Court stands modified to the aforesaid extent.

9. As a result, the pending interlocutory application also stands disposed of.

.....CJI.

(SURYA KANT)

.....J.

(JOYMALYA BAGCHI)

NEW DELHI;

DECEMBER 05, 2025."

16. Considering the entire facts and circumstances of the case, the impugned order dated 29.8.2016 passed by respondent no.1, Additional Commissioner (Judicial-II) Aligarh Region Aligarh and order dated 1.7.2015 passed by respondent no.2, Collector Hathras, District Hathras are liable to be set aside and the same are hereby set aside.

17. The writ petition stands **allowed** and the authorities are directed to correct the entry of the plot in question in the name of petitioner forthwith.

18. No order as to costs.

(Chandra Kumar Rai,J.)

August 25, 2026
Vandana Y.