

Neutral Citation No. - 2024:AHC-LKO:16888-DB

[A.F.R.]

[Reserved]

Court No. - 2

Case :- WRIT - C No. - 11383 of 2023

Petitioner :- Syed Hamidul Bari

Respondent :- State Of U.P. Thru. Addl. Chief/Prin. Secy. Housing
And Urban Planning Deptt. Lko. And 4 Others

Counsel for Petitioner :- Kazim Ibrahim, Amrit Khare

Counsel for Respondent :- C.S.C., Pushpila Bisht, Ratnesh
Chandra, Ruchir

ALONG WITH

1. Case :- WRIT - C No. - 514 of 2024

Petitioner :- Samrat Furniture Manufacturing Shop Lko. Thru.
Owner Smt. Najma Bano And Another

Respondent :- State Of U.P. Thru. Addl. Chief Secy./ Prin. Secy.
Housing/Urban Planning Deptt. Lko. And 4 Others

Counsel for Petitioner :- Kazim Ibrahim

Counsel for Respondent :- C.S.C., Anuj Kudesia, Ratnesh Chandra

2. Case :- WRIT - C No. - 11484 of 2023

Petitioner :- Sabiha Kausar

Respondent :- State Of U.P. Thru. Addl. Chief Secy. /Prin. Secy.
Housing And Urban Planning And Others

Counsel for Petitioner :- Kazim Ibrahim, Akshay Kumar Singh

Counsel for Respondent :- C.S.C., Ratnesh Chandra

3. Case :- WRIT - C No. - 11244 of 2023

Petitioner :- Suhail Haider Alvi

Respondent :- State Of U.P. Thru. Addl. Chief/Prin. Secy. Housing
And Urban Planning Deptt. Lko. And 4 Others

Counsel for Petitioner :- Kazim Ibrahim, Amrit Khare

Counsel for Respondent :- C.S.C., Ratnesh Chandra

4. Case :- WRIT - C No. - 11477 of 2023

Petitioner :- Arshad Warsi

Respondent :- State Of U.P. Thru. Addl. Chief/ Prin. Secy. Housing
And Urban Planning Lko. And Others

Counsel for Petitioner :- Kazim Ibrahim, Akshay Kumar Singh, Amrit Khare

Counsel for Respondent :- C.S.C., Ratnesh Chandra

5. Case :- WRIT - C No. - 11360 of 2023

Petitioner :- Mohd. Naushad

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy.

Housing And Urban Planning Deptt. And 4 Others

Counsel for Petitioner :- Kazim Ibrahim, Amrit Khare

Counsel for Respondent :- C.S.C., Ratnesh Chandra

6. Case :- WRIT - C No. - 11362 of 2023

Petitioner :- Mohammad Abrar

Respondent :- State Of U.P. Thru. Addl. Chief/Prin. Secy. Housing

Urban Planning Deptt. Lko. And 4 Others

Counsel for Petitioner :- Kazim Ibrahim, Amrit Khare

Counsel for Respondent :- C.S.C., Ratnesh Chandra

7. Case :- WRIT - C No. - 642 of 2024

Petitioner :- Mohd. Shafeek And 9 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Prin. Secy.

Housing And Urban Planning Deptt. Lko And 4 Others

Counsel for Petitioner :- Kazim Ibrahim

Counsel for Respondent :- C.S.C., Ratnesh Chandra

8. Case :- WRIT - C No. - 11480 of 2023

Petitioner :- Mohd. Irshad Ali

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy.

Housing Urban Planning Deptt. Lko And Others

Counsel for Petitioner :- Kazim Ibrahim, Akshay Kumar Singh

Counsel for Respondent :- C.S.C., Ratnesh Chandra

9. Case :- WRIT - C No. - 738 of 2024

Petitioner :- Fazeel Ahmad

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy.

Housing And Urban Planning Deptt. And 4 Others

Counsel for Petitioner :- Kazim Ibrahim, Amrit Khare

Counsel for Respondent :- C.S.C., Ratnesh Chandra

10. WRIT - C No. - 11258 of 2023

Petitioner :- Shri Shakeel Ahmad

Respondent :- State Of U.P. Thru. Add. Chief Secy. Housing And

Urban Planning Deptt, Lko. And 4 Others

Counsel for Petitioner :- Kazim Ibrahim, Amrit Khare

Counsel for Respondent :- C.S.C., Ratnesh Chandra

11. Case :- WRIT - C No. - 11368 of 2023

Petitioner :- Mohammad Saif Khan

Respondent :- State Of U.P. Thru. Addl. Chief/Prin. Secy. Housing
Urban Planning Deptt. Lko. And 4 Others

Counsel for Petitioner :- Kazim Ibrahim, Amrit Khare

Counsel for Respondent :- C.S.C., Ratnesh Chandra

12. Case :- WRIT - C No. - 11372 of 2023

Petitioner :- Nameera Khan

Respondent :- State Of U.P. Thru. Addl. Chief/Prin. Secy. Housing
Urban Planning Deptt. Lko. And 4 Others

Counsel for Petitioner :- Kazim Ibrahim, Amrit Khare

Counsel for Respondent :- C.S.C., Ratnesh Chandra

13. Case :- WRIT - C No. - 739 of 2024

Petitioner :- Syed Mahmood Ali

Respondent :- State Of U.P. Thru. Addl. Chief/Prin. Secy. Housing
And Urban Planning Deptt. Lko. And 4 Others

Counsel for Petitioner :- Kazim Ibrahim, Amrit Khare

Counsel for Respondent :- C.S.C., Ratnesh Chandra

14. Case :- WRIT - C No. - 11375 of 2023

Petitioner :- Vishnu Swaroop Chaurasya

Respondent :- State Of U.P. Thru. Addl. Chief/Prin. Secy. Housing
And Urban Planning Deptt. U.P. And 4 Others

Counsel for Petitioner :- Kazim Ibrahim, Amrit Khare

Counsel for Respondent :- C.S.C., Ratnesh Chandra

15. Case :- WRIT - C No. - 11468 of 2023

Petitioner :- Muhammad Shoaib Ali

Respondent :- State Of U.P. Thru. Addl. Chief Secy./ Prin. Secy. Lko
And 3 Others

Counsel for Petitioner :- Kazim Ibrahim, Akshay Kumar Singh

Counsel for Respondent :- C.S.C., Ratnesh Chandra

16. Case :- WRIT - C No. - 11482 of 2023

Petitioner :- Adil Ishtiaq

Respondent :- State Of U.P. Thru. Addl. Chief/ Prin. Secy., Housing
And Urban Planning Deptt. Lucknow And Others

Counsel for Petitioner :- Kazim Ibrahim, Aishvarya Mathur, Amrit
Khare

Counsel for Respondent :- C.S.C., Ratnesh Chandra

17. Case :- WRIT - C No. - 11481 of 2023

Petitioner :- Mohd. Abubakar

Respondent :- State Of U.P. Thru. Addl. Chief/Prin.Secy. Housing
And Urban Planning Deptt. Lko And 4 Others

Counsel for Petitioner :- Kazim Ibrahim,Akshay Kumar Singh,Amrit
Khare

Counsel for Respondent :- C.S.C.,Ratnesh Chandra

18. Case :- WRIT - C No. - 11492 of 2023

Petitioner :- Mohammad Adil

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Housing/Urban
Planning Deptt. Lko. And 4 Others

Counsel for Petitioner :- Kazim Ibrahim,Akshay Kumar Singh

Counsel for Respondent :- C.S.C.,Ratnesh Chandra

19. Case :- WRIT - C No. - 729 of 2024

Petitioner :- Rehan Ali

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Housing And
Urban Planning Deptt. Lko. And 4 Others

Counsel for Petitioner :- Kazim Ibrahim,Amrit Khare

Counsel for Respondent :- C.S.C.,Ratnesh Chandra

20. Case :- WRIT - C No. - 11380 of 2023

Petitioner :- Deepak Chaurasia

Respondent :- State Of U.P. Thru. Addl. Chief/Prin. Secy.
Housing/Urban Planning Deptt. U.P. Lucknow And 4 Others

Counsel for Petitioner :- Kazim Ibrahim,Amrit Khare

Counsel for Respondent :- C.S.C.,Ratnesh Chandra

21. Case :- WRIT - C No. - 792 of 2024

Petitioner :- Mohammad Anwar

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy.
Housing And Urban Planning And 4 Others

Counsel for Petitioner :- Kazim Ibrahim,Amrit Khare

Counsel for Respondent :- C.S.C.,Ratnesh Chandra

22. Case :- WRIT - C No. - 494 of 2024

Petitioner :- Mohd. Parvez Khan

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy.
Housing/Urban Planning Deptt. Lko. And 4 Others

Counsel for Petitioner :- Kazim Ibrahim

Counsel for Respondent :- C.S.C.,Ratnesh Chandra

23. Case :- WRIT - C No. - 527 of 2024

Petitioner :- Mohd. Shanu And 8 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy.
Housing And Urban Planning Lko. And 4 Others

Counsel for Petitioner :- Kazim Ibrahim

Counsel for Respondent :- C.S.C.,Anuj Kudesia,Ratnesh Chandra

Hon'ble Vivek Chaudhary,J.

Hon'ble Om Prakash Shukla,J.

1. These are 24 writ petitions out of which 22 are filed by individual petitioners and two writ petitions namely Writ-C No.642 of 2024 and Writ-C No.527 of 2024 are filed by 10 and 9 petitioners respectively. Out of them Mohd. Shafeek-Petitioner no.1 and Smt. Shahana-Petitioner No.5 in Writ-C No.642 of 2024 and Abdulla-Petitioner No.6 in Writ-C No.527 of 2024 are involved in present bunch of writ petitions. These 25 petitioners relate to large bunch of writ petitions regarding slum known as Akbar Nagar (I) and (II), Lucknow. The said slum situates along the sides of Kukrail river/nala and falls much inside the city. Petitioners, persons of resources, claiming themselves as slum dwellers, obtained stay orders from the High Court and also attempted to be heard along with actual poor slum dwellers. It was only during course of the argument, that this Court came to know that they actually have illegally occupied large pieces of land of State Government and raised multi-story furniture showrooms/workshops on the main Lucknow-Faizabad Road, or immediately at the back of first row of showrooms, are filing their GST and income tax returns and mostly are living in their own houses in posh or well developed, old settled residential areas/colonies of Lucknow and in most of the cases also owning other properties.
2. Looking into their GST and income tax returns, location and size of the land occupied and constructions raised by them and also other properties owned by them, their cases are

segregated from the main bunch of actual poor slum dwellers and slum areas. Before coming to the submissions of counsel for the parties, the chart, provided by the petitioners on directions of this court, and also added to by the respondents, regarding the GST and income tax returns, area occupied, constructions raised, and other properties owned by these petitioners is as follows:-

Sr. No.	Writ C No.	Name	Nature of building occupied	GST Returns	Income Tax Returns (Total Income)	Land unauthorizably occupied and total constructed area	Other properties
1.	11383/2023	Syed Hamidul Bari husband of Najma (petitioner of writ petition at Sl. No.2)	Commercial Samrat Furniture Manufacturing Shop & Ors.	Rs. 2,29,89,900/- approx (2022-23)	Rs. 10,00,870/- (2023-24)	1800 sq.ft. Basement+Ground Floor+First Floor+Second Floor 4x1800 sq. ft.=7200 sq. ft.	A. Residing at 536/2/198, new madehganj, near avadh school, sultanpur road, Lucknow where he is residing with his family; B. Godown located at Harshita Complex, Faizabad Road, Lucknow. C. Ancestral agricultural land in ancestral village at Rookhi majhari, Utraula, District-Balrampur
2.	514/2024	Najma Bano wife of Syed Hamidul Bari (petitioner of writ petition at sl. no.1)	Commercial Samrat Furniture Manufacturing Shop & Ors.	Rs. 1,43,09,235/- approx (2022-23)	Rs. 5,29,970/- (2022-23) Rs. 4,95,900/- (2023-24)	1500 Sq. ft. (Ground Floor + First Floor) 1500x2=3000 sq. ft.)	Owens a shop located at Harshita Complex, Faizabad Road, Lucknow with an area of around 200 sq. ft.
3.	11484/2023	Sabiha Kausar	Commercial	Rs. 1,11,02,395.73 approx (2022-23) Rs. 72,73,475.19 approx (2023-24)	Rs. 4,85,550/- (2022-23) Rs. 4,28,710/- (2023-24)	1100 sq. ft. Basement+Ground Floor+First Floor 3x1100 sq. ft. =3300 sq. ft.	A plot of Land at Madaion, Tehsil- BKT admeasuring 1600 sq. ft.
4.	11244/2023	Suhail Haider Alvi	Commercial M/s Taj Mahal Furniture	Rs. 90,29,089.75 approx (2022-23)	Rs. 7,80,000/-	2800 sq. ft. Basement+ Ground Floor+First Floor 3x2800 sq. ft. =8400 sq. ft.	A. Share in ancestral property located at 41, Pragati Vihar, Priyadharshini, Lucknow B. Flat No.B-G02, Shalimar, Gallant, Mahangar.
5.	11477/2023	Arshad Warsi	Commercial	Rs. 58,96,916/- approx (2021-22) Rs. 1,06,73,467/- approx (2022-23)	Rs. 4,96,150/-	2800 sq.ft. Basement+ Ground Floor+First Floor 3x2800 sq. ft.= 8,400 sq. ft.	A. under construction on plot of land at Hasemau, Malhour admeasuring 1250 sq. ft. B. Share in ancestral house admeasuring 1800 sq. ft. and agricultural land admeasuring 7 Bigha in District Kasganj.
6.	11360/2023	Mohd Naushad brother of petitioner in writ petition at sl. 7	Commercial	Rs. 72,15,503/- approx (2022-23) Rs. 55,68,437.12 approx (2023-24)	4,94,890/- (2022-23) 4,97,570/- (2023-24)	2,000 sq. ft. (400 sq.ft. Of Mohd Abrar + 1600 sq. ft. of himself holding together) (Basement + Ground Floor) 2x2000=4000 sq. ft.	LIG House in the name of her wife at L-2/644, Vineet Khand Gomti Nagar, Admeasuring 546 sq.ft.
7.	11362/2023	Mohd Abrar brother of petitioner in writ petition at.	Commercial (Shop Merged with brother, no longer in	Rs. 68,61,384/- approx (2022-23)	4,80,470/- (2022-23) 4,81,000/-	400 sq. ft	A. A shop in Nishatganj located on 980 sq. ft. ; B. A small flat in IMT Building,

		sl. 6	Akbar Nagar)	Rs. 41,25,584/- approx (2023-24)	(2023-24)		New Hyderabad, Lucknow located on 950 Sq. ft., by way of a housing loan for 15 years.
8.	642/20 24	Mohd. Shafeek Khan Petitioner No. 1 Husband of Petitioner No.5 Shahana	Commercial cum Residential M/s M.R. Uniform	Rs. 45,67,519/- approx (2023-24)	Rs. 4,97,360/- (2023-24)	540 sq. ft. Ground Floor + First Floor + Second Floor 3x540 sq. ft.= 1620 sq. ft.	Petitioner No.1 owns two plot one at Fatima Colony, Husainabad, measuring about 680 sq. ft. and other at Nizampur Malhaur measuring 1600 sq. ft. (owns total 2280 sq. ft.)
9.	11480/ 2023	Irshad Ali	Commercial	Rs. 10,06,834/- approx (2022-23)	Rs. 4,98,500/- (2022-23) Rs. 4,94,100 (2023-24)	2,000 sq. ft. (Basement + Ground Floor) 2x2000 sq. ft.=4000 sq. ft.	Ghasiyari Living in Ancestral Property, details of which are not provided.
10.	738/20 24	Fazeel Ahmad	Commercial cum Residential	Rs. 13,14,515/- approx (2021-22) Rs 14,53,009/- approx (2022-23)	Rs. 4,20,650/- (2022-23) Rs 4,86,760/- (2023-24)	1100 sq.ft. (Basement + Ground Floor) 2x1100 sq. ft= 2200 sq. ft.	None
11.	11258/ 2023	Shakeel Ahmed	Commercial	Rs. 6,96,809/- approx (2022-23) Rs. 3,42,000/- approx (2023-24)	Rs. 4,99,560/- (2022-23) Rs. 4,54,800/- (2023-24)	750 sq.ft. (Basement + Ground Floor) 2x750sq. ft. =1500 sq. ft.	Petitioner is currently residing at 234/69, Thawai Tola, Raja Bazaar, Lucknow – 226003, which is owned by his wife
12.	11368/ 2023	Mohd. Saif Khan)	Commercial (Firm registered in the name of father Mr. Mohd Israr	Rs. 5,99,639.38 approx (2017-18) Rs. 3,00,053.94 approx (2018-19)	Rs. 2,92,950/- (2017-18) Rs. 3,09,329/- (2018-19) Rs. 55,945/- (2019-20)	2900 sq. ft. (Basement + Ground Floor) + First Floor) 2x2900 sq. ft. =5800 sq. ft.	Residential details are not given
13.	11372/ 2023	Nameera Khan	Commercial given on rent by her	NA	Rs. 7,03,051/- (2022-23) Rs. 4,37,960/- (2023-24)	1800 Sq. ft. (Basement + Ground Floor + First Floor) 3x1800 sq. ft. =5400 sq. ft.	A-402, Indira Nagar, Lucknow- 226016, Late husband joint family house
14.	739/20 24	Syed Mahmood Ali	Commercial	Rs. 14,97,129/- approx (2022-23)	Rs. 7,49,148/- (2022-23) Rs. 4,37,360/- (2023-24)	750 sq.ft. Basement+Ground Floor 2x750 sq. ft.=1400 sq. ft.	Plot of land at Madaion, Tehsil - BKT admeasuring 1600 sq. ft.
15.	11375/ 2023	Vishnu swaroop Chaurasia	Commercial	Rs. 16,66,800/- approx (2021-22) Rs. 27,45,600/- approx (2022-23)	Rs. 3,73,180/- (2022-23) Rs. 4,39,980/- (2023-24)	770 sq. ft. Basement+Ground Floor+First Floor 3x770 sq. ft.=2310 sq. ft.	Parental House in Ram Tirth Marg, Narhai, Hazratganj
16.	11468/ 2023	Mohd. Shoaib Ali	Commercial	Rs. 8,86,412/- approx (2022-23) Rs. 88,602/- approx (2023-24)	Rs. 4,96,500/- (2022-23) Rs. 4,90,190/- (2023-24)	1200 sq. ft. Ground Floor+First Floor 2x1200 sq. ft.=2400 sq. ft.	Residing in parental house in Ghasiyari mandi, Kaisrbaugh

17.	11482/2023	Adil Ishtiaq	Commercial	Rs. 8,39,807/- approx (2022-23) Rs. 2,92,576/- approx (2023-24)	Rs. 4,92,010/- (2022-23) Rs. 4,23,930/- (2023-24)	1100sq. ft. Basement+Ground Floor 2x1100 sq. ft.=2200 sq. ft.	Residing in parental house in Ghasiyari mandi, Kaisrbaugh
18.	11481/2023	Mohd. Abubakar	Commercial cum residential	Rs. 1,65,669/- approx (2022-23) Rs. 2,20,627/- approx (2023-24)	Rs. 4,77,980/-	600 sq. ft. Basement+Ground Floor+First Floor 3x600 sq. ft. =1800 sq. ft.	Share in ancestral agricultural land along with his brother admeasuring around 1 Bigha at village- Umrah, Kursi, District- Barabanki
19	11492/2023	Mohd. Adil	Commercial M/s Bombay Furniture and Interior Decorator	Rs. 55,04,000/- approx (2022-23) Rs. 29,71,460/- Approx (2023-24)	Rs. 3,46,390/- (2022-23) Rs. 4,59,030/- (2023-24)	1800 sq. ft. Basement+Ground Floor+First Floor 3x1800 sq. ft.=5400 sq. ft	Parental House R/O Old Haiderganj, Chowk, Lucknow
20.	729/2024	Rehan Ali	Commercial Cum House Stamp Manufacturer	Rs. 1,00,378/- approx (2023-24)	Rs. 4,86,140/- approx(2023-24) Rs. 4,70,200/-	300 sq. ft. Basement+Ground Floor 2x300 sq.t. =600 sq. ft.	A semi constructed house at Khurram Nagar admeasuring about 1800 sq.ft.
21.	11380/2023	Deepak Chaurasia	Commercial	Zero GST Closed in the year 2019	Rs. 4,42,700/- (2023-24) Rs. 4,60,040/- (2022-23)	1200 sq. ft. Basement+Ground Floor 2x1200 sq. ft.=2400 sq. t.	A Semi finished housed of 1365 sq. ft., at 9-C/249, Vrindavan Yojana, Lucknow
22.	792/2024	Mohd. Anwar	Commercial cum Residential Coffee Shop	Rs. 17,32,610/- approx (2022-23) Rs. 2,47,940/- approx (2021-22)	Rs 4,11,220/- (2021-22) Rs. 4,17,470/- (2022-23)	900 sq. ft. Ground Floor	None
23.	494/24	Mohd. Parvez Khan	Commercial cum Residential	Rs. 5,35,007/- approx (2020-21) Rs. 4,23,106/- approx (2021-2022) Rs. 12,34,602/- approx (2022-23)	Rs 2,12,020/- (2022-23) 3,37,340/- (2023-24)	180 sq. ft. Basement+Ground Floor+First Floor 3x180 Sq. ft. =540 sq. ft.	None
24.	527/2024	Abdulla- Petitioner No.6	Commercial	Rs.49,960/- approx (2022-23) Rs.40,800/- approx (2023-24)	NA	200 sq. ft. Ground Floor+ First Floor 2x200=400 sq. ft.	Residential detail are not given

3. In the said background, Mr. Sudeep Kumar, Advocate, Sri Anuj Kudesia, Advocate assisted by Sri Ratnesh Chandra, Advocate for the respondent, Lucknow Development

Authority, as well as learned Chief Standing Counsel strongly raise preliminary objection, that, these persons are neither slum dwellers nor their properties fall in the category of a slum. They state that by concealing the aforesaid correct facts, with regard to their status, the location and nature of construction and the area occupied by them, they have, by giving false impression to the Court, obtained interim orders on parity. It was incumbent upon them to have approached this Court with clean hands, providing entire details about their status. They have wrongly represented before this Court as poor landless slum dwellers and in the garb thereof are trying to save their huge, illegal and unauthorised constructions on the government land.

4. Attention of this Court is also drawn with regard to case of Sayed Hamidul Bari & Najma who are husband and wife and have occupied two separate plots of land and are running two separate businesses and have filed two petitions being Writ-C No.11383 of 2023 and Writ-C No.514 of 2024 (at Sl. 1 & 2 in the chart). Similarly, Shafeeq and Shahana, petitioner no.1 and 5 of Writ-C No.642 of 2024 (Sl. No.8 in chart) are husband and wife and have made their two separate claims. However they have not provided details of separate properties occupied by them. Similarly, Naushad and Abrar (Sl No.6 and 7 in the chart) are two real brothers, have occupied two separate properties and have filed two separate petitions being Writ-C No.11360 of 2023 and Writ-C No.11362 of 2023 who now claim that they have merged their shops and entire property is owned by one of the brothers. Nameera Khan, petitioner in Writ-C No.11372 of 2023 (Sl. no.13 in chart) has rented out

her illegally constructed showroom while herself lives in posh Indira Nagar, Colony, Lucknow.

5. In support of their case respondents have placed reliance upon the judgment in the case of **S. Sivaprakasa Mudaliar Vs. The State of Madras; AIR 1964 Madras 115**. Relevant portion of the same reads :-

"11.....The expression "slum dwellers though in popular parlance has acquired some special meaning, namely, those who are economically and socially backward and who huddle themselves together in openings in unhealthy surroundings, the term as such has no such technical meaning. The word "slum" in its, true import means a "street or alley situate in a crowded district of a town or city and inhabited by people of in low class or by the poor". It may be that in some cases the slum area may be a thickly populated one and of a squalid and wretched character, but essentially the word slum is of wide import including within it a crowded place in a city inhabited by the poor....."
(emphasis added)

6. Mr. Jaideep Narain Mathur, Senior Advocate assisted by Mr. Apoorva Tewari, Ms. Aishvarya Mathur, Mr. Amrit Khare and Mr. Kazim Ibrahim is leading arguments for petitioners. He submits that it is not necessary for a slum dweller to be a poor person. Anyone from the slum areas can be a slum dweller, whether he is living there or is running his commercial activities in that area. Since petitioners are running their commercial activities in the said Akbar Nagar area they would fall within the definition of slum dweller. Mr. Mathur submits that the concept of rich and poor has nothing to do either with slum or slum areas. He submits that it is the U.P. Slum Areas (Improvement and Clearance) Act, 1962 which applies and hence, we should look at the said Act to understand these terms. He refers to Section 2(i) of the Act of 1962 and Clause

4(1) of the Policy dated 29.10.2021 issued under the said Act which defines the term 'Slum'. The same read:-

"2(i) Slum area means an area declared as such under Section 3;"

4. परिभाषा-

इस नीति में, जब तक संदर्भ से अन्यथा अपेक्षित न हो, निम्नलिखित शब्दों के वही अर्थ होंगे, जो निम्नवत परिभाषित किये गये हैं:-

1. मलिन बस्ती (स्लम) का अभिप्राय उत्तर प्रदेश मलिन बस्ती क्षेत्र (सुधार और निपातन) अधिनियम, 1962 की धारा-3 के अनुसार परिभाषित स्लम से है, जिसमें ऐसी बस्तियां सम्मिलित होंगी, जहाँ स्वच्छता, स्वास्थ्य, सुरक्षा, सड़क आदि का समुचित व्यवस्था न हो तथा मानव निवास के लिए अनुपयुक्त हो। इस नीति के अन्तर्गत ऐसे स्लम मान्य होंगे, जिनमें न्यूनतम 300 व्यक्ति हों।

7. He submits that neither of the said definitions uses the word 'poor' with regard to a sum dweller or slum area. Therefore, the concept of poor and rich is wrongly being applied. He submits that it is very much possible that a person may earn money with time and become rich but still could continue to remain in a slum area and he can not be denied the benefits as available to other slum dwellers. Mr. Mathur states that judgment in case of **S. Sivaprakasaa Mudaliar (Supra)**, arising from the Madras High Court, is a case relating to acquisition of land and the main issue before the Court was, whether the purpose of acquisition of land would be treated to have changed in case along with slum dwellers, the scheme also permits allotment of certain house sites to low and middle-income group persons. He submits that the main issue before the Court was not definition of the slum dwellers and, hence, judgment of the said case is of no assistance. He further submits that the court cannot take GST or income tax returns of the petitioners, or the location or size of area occupied and nature of constructions raised or other properties owned by them, into consideration for not treating them as slum dwellers or their area as slum.

8. Counsel for petitioners fairly accepted before this court that the land occupied by all the petitioners belongs to State Government and furniture or related products showrooms/workshops constructed by the petitioners upon the same are without any authorisation and, thus, are illegal. It is also accepted that they exist on the main Lucknow-Faizabad road or immediately at the back of first row of showrooms. Also admitted are tax returns and other property details as detailed in the chart above. Thus, we proceed to consider rival submissions on aforesaid admitted facts.
9. The term 'slum' and 'slum dweller' is defined in number of dictionaries, some of which read:-

Collins COBUILD Advanced Learner's English Dictionary New Edition

Slum / slum (slums) *A slum is an area of a city where living conditions are very bad and where the houses are in bad condition*

WORLD BOOK DICTIONARY

Slum (slum) *n., v., slummed slumming* *often slums a street, alley, or building in which a crowded, run-down, dirty part of the city or town, where the poorest people live. Poverty and disease are common in the slums. we hear stories now and then of some boys from a slum who makes good and wind up with a fortune. if [his] philosophy prevails, we shall have taken a long step backward toward the sweetshop and the slum (Time)*

2. Extreme poverty and low social class, as in the slums : to rise from the slums to power and wealth.

BLACK 'S LAW DICTIONARY

Slum, n. (1825) *1. An urban area where very poor people live in substandard conditions characterized by filth, squalor, and frequent violence*

2. A house or apartment located in such a place .

THE OXFORD ENGLISH DICTIONARY

Slum

2. a. A Street, alley, court, etc, situated in a crowded district of a town or city and inhabited by people of a low class or by the very poor; a number of these streets or courts forming a thickly populated neighbourhood or district where the houses and the conditions of life are of a squalid and wretched character Chiefly pl., and freq. in the phrase back slum(s). Also rarely, a house materially for human habitation."

- 10.** From the aforesaid dictionary meanings, it is clear that in normal parlance the term slum relates to an area in a city where poor and needy people live in an unhealthy, unhygienic and in conditions not fit and suitable for human habitat and poor living in the said conditions are called slum dwellers.
- 11.** Admittedly, all these showrooms/workshops, engaged in furniture and related businesses, exist on main road or are immediately adjacent to it. They are getting all benefits of any regular area of the city. They have widest road possible in the city. The main road is not filthy or lacks in any possible municipal facility. Their huge showrooms/workshops cannot be called filthy, run-down or unfit for humans. It is only that their address is shown as Akbar Nagar. The actual slum, covered by aforesaid definitions, begins behind these showrooms. Thus, petitioners are not suffering any of the challenges faced by the actual slum dwellers of the said slum. In the given circumstances, it is not possible for this court to accept that the showrooms/workshops of petitioners can be called as existing in a slum area. At best they exist at the edge of Akbar Nagar slum area and not in the said slum area. Similarly, the facts that they have had enough money to spend on illegal construction of huge showrooms/workshops, are paying their GST and filing income tax returns and/or most of them are having their own residences in good and posh localities of city and/or other properties, we are unable to hold

them as slum dwellers. We are here also reminded the words of Supreme Court:-

“Common sense, which is a cluster of life's experiences, is often more dependable than the rival facts presented by warring litigants.” stated in paragraph 35 of **(1985) 3 SCC 545; 'Olga Tellis and Others Vs. Bombay Municipal Corporation'**;

“It must be understood that an interpretation which upon application of the provisions at the ground reality, would frustrate the very law should not be accepted against the common sense view which will further such application.” in Paragraph 48 of **(2012) 2 SCC 108; 'Executive Engineer, Southern Electricity Supply Company of Orissa Limited (Southco) and Another Vs. Sri Seetaram Rice Mill** and,

"We are constrained to observe that the approach of the High Court to this question was not well-founded. The Privy Council no doubt laid down in Bhagchand Dagadusa v. Secretary of State [(1927) LR 54 IA 338] that the terms of this section should be strictly complied with. That does not however mean that the terms of the notice should be scrutinized in a pedantic manner or in a manner completely divorced from common sense. As was stated by Pollock C.B. in Jones v. Nicholls [(1844) 13 M & W 361, 363 : 153 ER 149, 150] “We must import a little common sense into notices of this kind”. Beaumont, C.J., also observed in Chandu Lal Vadilal v. Government of Bombay [ILR (1943) Bom 128.] :“One must construe Section 80 with some regard to common sense and to the object with which it appears to have been passed....” in paragraph 30 of **AIR 1958 SC 274; 'Dhian Singh Sobha Singh and another vs. Unin of India'**.

12. As per the law settled, the words are to be interpreted in such a manner that they serve the purpose and are not given an interpretation which goes against very common sense. Lets take a hypothetical example to explain the issue further. Presuming in a slum, a businessman finding good business opportunity, takes possession of a large piece of land from the actual slum dwellers and illegally, without required sanctions, constructs a multiplex or a big hotel or a big shopping complex or raises any other such big business constructions. Can he, merely because he did these activities within a slum, claim to be a slum dweller entitled to the protection given to dingy houses of slum dwellers, despite all aspects of the matter reflecting his disparity with actual slum dwellers? The answer 'NO' comes to us too loudly. Thus we do not find our common sense accepting the sense of argument raised for the petitioners. The purpose of all legislation as well as law developed and settled by the courts, with regard to slum dwellers is, that these people, due to their poorness and circumstances are forced to live under inhuman conditions of a slum and all possible sympathies be applied and considered for improving their conditions and also while disturbing their possession. We do not find petitioners entitled to any such sympathies. We shall definitely consider these aspects while hearing the segregated bunch of petitions of actual slum dwellers.
13. The next submission of Mr. Mathur is that proceedings initiated against petitioners and the appeal decided under Section 27 of the U.P. Urban Planning and Development Act, 1973 (hereinafter Act of 1973), both are in violation of principles of natural justice. He states that the large number of

documents were accepted by the prescribed authority as well as by the appellate authority at the time of hearing of the matter, copies of which were not provided to the petitioners. Further, the appeals were placed for hearing of stay applications, but were heard on merits. Thus matters should be remanded.

14. We have perused both the proceedings at length with the assistance of counsel for parties. A perusal of the same shows that the documents were called for and considered to ascertain the status of Kukrail river/water channel next to the slum area and impact of slum on the said water channel. Once we have held that neither the petitioners are slum dwellers nor their establishments fall within the slum area, the said documents do not in any manner have any impact on the rights of the petitioners. Both before the prescribed authority as well as appellate authority petitioners represented themselves to be slum dwellers and did not place correct facts. Both the authorities have held proceedings and passed orders against petitioners on the basis of the said incorrect presumption.
15. Further, we have given an exhaustive hearing to the parties. The facts of the case are admitted to both sides. The law is well settled that this court should not issue futile writs. We refer to one of the recent judgment of the Supreme Court reported in *(2021) 19 SCC 706; 'State of U.P. Vs. Sudhir Kumar and Others;* wherein, after referring to nearly all earlier judgments, supreme court in para 42 held:

“42. An analysis of the aforesaid judgments thus reveals:

(1) Natural justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of the audi alteram partem Rule cannot by itself,

without more, lead to the conclusion that prejudice is thereby caused.

(2) Where procedural and/or substantive provisions of law embody the principles of natural justice, their infraction per se does not lead to invalidity of the orders passed. Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest, but also in public interest.

(3) No prejudice is caused to the person complaining of the breach of natural justice where such person does not dispute the case against him or it. This can happen by reason of estoppel, acquiescence, waiver and by way of non-challenge or non-denial or admission of facts, in cases in which the Court finds on facts that no real prejudice can therefore be said to have been caused to the person complaining of the breach of natural justice.

(4) In cases where facts can be stated to be admitted or indisputable, and only one conclusion is possible, the Court does not pass futile orders of setting aside or remand when there is, in fact, no prejudice caused. This conclusion must be drawn by the Court on an appraisal of the facts of a case, and not by the authority who denies natural justice to a person.

(5) The "prejudice" exception must be more than a mere apprehension or even a reasonable suspicion of a litigant. It should exist as a matter of fact, or be based upon a definite inference of likelihood of prejudice flowing from the non-observance of natural justice."

16. In the admitted facts of the case we have duly considered the rival contentions and already given our findings. Thus, we do not find any reason to remand the matter.

17. Before closing, we also would like to place on record the words of caution of the Supreme Court in case of '*Almitra H. Patel v. Union of India*, (2000) 2 SCC 679 in paragraph 14:-

"14. Establishment or creating of slums, it seems, appears to be good business and is well organised. The number of slums has multiplied in the last few years by geometrical proportion.

Large areas of public land, in this way, are usurped for private use free of cost. It is difficult to believe that this can happen in the capital of the country without passive or active connivance of the land-owning agencies and/or the municipal authorities. The promise of free land, at the taxpayers' cost, in place of a jhuggi, is a proposal which attracts more landgrabbers. Rewarding an encroacher on public land with a free alternative site is like giving a reward to a pickpocket. The Department of Slum Clearance does not seem to have cleared any slum despite its being in existence for decades. In fact more and more slums are coming into existence. Instead of "slum clearance" there is "slum creation" in Delhi. This in turn gives rise to domestic waste being strewn on open land in and around the slums. This can best be controlled at least, in the first instance, by preventing the growth of slums. The authorities must realise that there is a limit to which the population of a city can be increased, without enlarging its size. In other words the density of population per square kilometre cannot be allowed to increase beyond the sustainable limit. Creation of slums resulting in increase in density has to be prevented. What the Slum Clearance Department has to show, however, does not seem to be visible. It is the garbage and solid waste generated by these slums which require to be dealt with most expeditiously and on the basis of priority."

18. In the said background and looking into the entirety of the matter this Court finds no reason to exercise its discretionary jurisdiction in favour of petitioners. Thus, all the writ petitions are ***dismissed***. Writ-C No.642 of 2024 is ***dismissed*** so far it relates to petitioner no.1 Mohd. Shafeek and petitioner no.5 Smt. Shahana only. Similarly Writ-C No.527 of 2024 is also ***dismissed*** so far it relates to petitioner no.6 Abdulla only.

Remaining petitioners in these two writ petitions are being considered along with the other bunch of writ petitions of actual slum dwellers, leading petition being Writ-C No.1372 of 2024.

19. Interim orders, if any, granted earlier, stands discharged with regard to the aforesaid petitioners.

Order Date :- 27.02.2024

Arti/-

[Om Prakash Shukla,J.]

[Vivek Chaudhary,J.]