AFR

Court No. - 20
Case :- MATTERS UNDER ARTICLE 227 No. - 1602 of 2022
Petitioner :- Smt. Kamlesh Singh
Respondent :- Board Of Revenue U.P. Lko. Thru. Its Chairman And 3 Others
Counsel for Petitioner :- Ajay Kumar,Amit Mishra
Counsel for Respondent :- C.S.C.
Hon'ble Jaspreet Singh,J.

1. Heard learned counsel for the petitioner as well as Sri Hemant Kumar Pandey, learned Standing Counsel for the State-respondents.

1A. The petitioner has approached this Court praying for the following relief:-

> *"(i) direct the Nayab Tehsildar, Jahangirganj, Tahsil-Alapur, District Ambedkar Nagar (opposite party no. 2) to decide the mutation Case No. T202004040402142 (Smt. Kamlesh Singh Vs. Smt. Anju Singh and others), under Section 34 U.P. Revenue Code, 2006 filed by the petitioner before the opposite party No. 2, which is pending before him within stipulated period."*

2. This Court by means of order dated 19.05.2022 had passed the following order which reads as under:-

> *"Heard learned counsel for the petitioner. Notice on behalf of the respondents No.1 and 2 has been accepted by the office of Chief Standing Counsel.*
>
> *The record indicates that the instant petition has been preferred seeking expeditious disposal of mutation case pending before the respondent No.2.*
>
> *The record further indicates that the petitioner had approached this Court earlier by means of Writ Petition No.17492 (M/S) of 2021 which was dismissed as not pressed vide order dated 12.08.2021, a copy of which has been brought on record as Annexure No.3.*
>
> *It is further stated by the petitioner that in furtherance of the liberty granted to the petitioner, the petitioner has moved an application before the respondent No.1 for expeditious disposal, a copy of which has been brought on record as Annexure No.4.*
>
> *It is submitted that despite the said application being moved in the month of October, 2021, no orders have been passed on the said application.*

Learned standing counsel shall seek complete and detailed instructions from the respondent No.1 as to how many such applications under Para-494, Chapter-XV of the Revenue Code Manual (Amendment) Regulation, 2016 have been received by the Board of Revenue and how many applications have been disposed off and the time taken for disposing the said applications and as on the date, how many applications are pending seeking expedition under the aforesaid Regulation.

Let the complete instructions be made available in proper tabulation within ten days from today.

List this matter again on 30.05.2022, as fresh."

3. On 30th May, 2022, on the request of learned Standing Counsel, the matter was taken up on 31.05.2022 and the learned Standing Counsel in pursuance of the order dated 19.05.2022 has provided the details as sought by the Court in its order dated 19.05.2022. The same is taken on record.

4. The petitioner has approached this Court seeking expeditious disposal of her mutation case pending before the Nayab Tehsildar, Jahangirganj, Tehsil Alapur, District Ambedkar Nagar.

5. It had been specifically averred in the petition that the petitioner had approached this Court by filing W.P. No. 17492 (MS) of 2021 (Smt. Kamlesh Vs. State of U.P. and others) and upon preliminary objection raised by the State-respondents, the petitioner was relegated to avail the alternate remedy of approaching the Board of Revenue by filing an application for expedition in terms of para 494 of the U.P. Revenue Court Manual (Amendment) Regulations, 2016.

6. It is also submitted that despite having moved the said application before the Board of Revenue in the month of October, 2021, yet the said application has not been decided, as a result, neither the application for expedition has been disposed of and in any case, the mutation case of which expedition is sought still remains to be decided, though, under the Rules framed namely U.P. Revenue Code Rules, 2016, the contested mutation cases are to be decided within a period of three months.

7. It is in the aforesaid circumstances, that the Court had called upon the learned Standing Counsel regrading the details and from the perusal of the aforesaid details and stastictics so provided by the learned Standing Counsel that between January, 2019 till May, 2022, a total number of 298 applications under Para 494 of the Revenue Court Manual (Amendment) Regulations, 2016 have been filed out of which 210 expedition applications have been decided and 88 applications are still pending. However, it is not disputed that the application for expedition preferred by the petitioner on 21st October, 2021 has yet not been decided and is fixed for hearing before the Board of Revenue on 19.07.2022.

8. Considering the facts and circumstances and even though the petitioner has moved an application for expedition before the Board of Revenue which has not been decided despite a period of seven months has lapsed and the time for disposal of mutation case as provided in Rule 34 (7) of the U.P. Revenue Code Rules, 2016 is 90 days and in case if it is not so decided then reasons have to be recorded.

9. In the aforesaid circumstances, this Court deems fit that in exercise of the powers under Article 227 of the Constitution of India, the Court dispenses notice on the private respondent nos. 3 and 4 and **directs the respondent no. 2 i.e. the Nayab Tehsildar, Jahangirpur, Tehsil Alapur District Ambedkar Nagar to consider and decide the pending mutation case most expeditiously without granting any unnecessary adjournments to either of the parties but after affording fully opportunity of hearing, preferrably within a period of three months from the date a certified copy of this order is placed before the Court concerned. This order shall also dispose of the expeditious application before the Boar of Revenue bearing E.A./2149/2021.**

10. That the petitoiner had approached this Court only for the limited prayer as noticed above but there are certain disturbing facts which is being noticed by this Court, repeatedly, and thus it is necessary to take cognizance of the same. This Court is deluged with petitions under Article

227 of the Constitution of India seeking expedite orders in respect of matters pending before the various tiers of the hierachy of the Revenue Courts.

11. Primarily, in all such petitions, a prayer for expedition is sought and in largely all of the petitions the petitioners in order to substantiate the injustice caused to them on account of non-disposal of their cases, they bring on record the extracts of the order sheets which divulge a serious malaise affecting the functioning of the revenue courts.

12. This Court has come across cases relating to disposal of suits pending before the revenue Court of first instance wherein persons are seeking declaration of their rights relating to the year 1977. Illustratively, this issue came to be noticed by this Court in (Nirmala Devi Vs. Additional Sub Divisional Officer-1, Sadar Pratapgarh and others) in W.P. No. 2077 of 2022 wherein the plight of the petitioner could be well imagined where the suit for declaration of rights is pending since 1977. Similarly, in another matter (Smt. Bikhana Vs. State of U.P., Principal Secretary, Revenue and 6 others) bearing W.P. No. 1442 of 2022 a suit for declaration of rights was pending before the Court of first instance since 1997.

13. It has further been noticed that the matters relating to consolidation operations under the U.P. Consolidation of Holdings Act, 1953 (hereinafter referred to as Act of 1953) are also pending since large many number of years.

14. Illustratively, the issue came to be noticed by this Court in (Pradeep Tiwari Vs. Consolidation Officer, Bikapur, Ayodhya Mandal, Ayodhya and others) bearing Petition No. 1340 of 2022 where the objections under Section 9-A (2) of the U.P. C.H. Act, 1953 were pending before the Consolidation Officer, i.e. the Court of first instance since 1988.

15. Again in (Ajit Singh Vs. State of U.P. and others) bearing petition No. 20470 of 2022, the objections under the U.P.C.H. Act, 1953 were

pending since 1986. In the case of (Ram Kuber Vs. Consolidation Officer, Sultanpur writ petition no. 1855 of 2022), the objections under Section 9-A(2) of the U.P.C.H. Act of 1953 were pending since 1989 and again in (Sarju Prasad Vs. Consolidation Officer, Faizabad and others) bearing W.P. No. 1419 of 2021, the objections under the U.P.C.H. Act were pending before the Consolidation Officer since 1994.

16. The reference to the aforesaid cases is only to put the point across and it is not, as if, in few isolated cases such disturbing trend is emerging. Rather this court is pained to say that this problem across the revenue courts is rampant. Mention to the few cases as aforesaid is only illustratively and though it is not confined only to such cases but the dilemma is much more widespread.

17. The Constitution of India envisages the concept of social justice which is a Basic Structure Doctrine of our constitution. The concept of social justice is not uni-dimensional rather it is a concept which can be seen through a prism encapsulating within itself, political and social spheres. Right to legal redressal is also a Basic Structive Doctrine of the constitution.

18. It is often said that justice delayed is justice denied but at the same time, it must be seen that wherever justice is being dispensed, it must be done within some reasonable time or else if it is left without any legal harness of timelines, it may result in catestrophic consequences which shall erode the faith and confidence of the common persons.

19. In our country, large part of the society is agrarian and rural which necessarily amongst othes involve the rights, liabilities and obligations relating to agricultural/revenue paying land of the people which is situate in the core of the countryside and villages. Large part of our population also resides in such villages and large number of families are dependent on agriculture for their livelihood. The agricultural land for them is not

only a matter of social security but also their livelihood and their rights, prosperity including that of their generations is dependent thereon.

20. The matters pending before the Revenue Court emnate primarily from three Acts (i) Uttar Pradesh Land Revenue Act, 1901, (ii) The Uttar Pradesh Zamindari and Land Abolition Reforms Act, 1950 (iii) The Uttar Pradesh Consolidation of Holdings Act, 1953.

21. The U.P. Land Revenue Act, 1901 and the U.P.Z.A. & L.R. Act, 1950 came to be repealed and have now been replaced by the U.P. Revenue Code, 2006. It is these Acts which govern the rights, liabilities relating to agricultural land and also involves the litigation therefrom. The aforesaid Acts have an hierachy of courts which is manned by Presiding Officers who are appointed and controlled by the State Government. The highest Authority of the Revenue Court is the Board of Revenue which exercises the power of superintendence over such subordinate revenue courts and authorities including powers of revision and also has been conferred the power of review.

22. This Court finds that the issue which is raised herein is not new rather it has a lamenting past. This aspect of the matter was taken note of by a coordinate Bench of this Court in ***Uday Narain Singh Vs. State of U.P. and others*** reported in ***2006 (2) AWC 1399*** wherein noticing the plight of a litigant viz. a viz. his litigation before the Revenue Courts, the Court in paragraphs 11, 12, 13, 14 and 16 has held as under:-

> *"..11. In a recent decision rendered by this Court, it was noticed with concern that cases have been lingering in various courts dealing with revenue cases and in consequence, a peremptory direction has been issued with a view to regulating the working of these courts by prescribing fixed hours and days untramrneled by the pressure of any other duties on administrative side. The present case is not dissimilar to the case noticed above and in the facts and circumstances, when the case in hand has been suffering protraction for more than 15 years, I deem it my sacred duty to do something towards reonentation in the realm occupied by these officers on executive side. This court is fully conscious that these executive officers are more often required to discharge executive functions which include functions of law and order and have to deal with unpleasant*

emergent situation and in discharge of these functions and in doing so they feel compelled to relegate the adjudicatory function to secondary position. Their executive and administrative functions apart, there is felt need that these officers should be mandated to devote few days and hours to these adjudicatory functions so that the statutory duties should not suffer at the altar of executive or administrative exigencies.

12. There is another aspect to be reckoned with. As noticed above, it is manifested from a perusal of the order-sheet that the case suffered.epeated adjournments on account of strike by the lawyers. By a catena of decisions rendered by the Apex court, it has been held that the lawyers strikes are illegal and that effective steps should be taken to stop the growing tendency. It has also been held that advocates have no right to go on strike and that the courts are under no obligation to adjourn matters because of strike by lawyers, It has further been held that it is the duty of all courts to go on with matters on their boards even the absence of lawyers and further that the courts must not be privy to strikes or calls for boycotts. (See , 1993 (3) SSC 256, (1995) 3 SCC 19, 1995 (1) SCC 619, , , and .

13. Upon a cumulative reading of the mandate of the Apex court embodied in the aforestated decisions, this Court on administrative side, issued circular No. 35/IIIb-36/Admin 'G' Dated: Oct: 4,2004 squeezing from above decisions the following directions for compliance by the subordinate courts in the event of strike by lawyers.

"1. The Subordinate Courts shall not take cognizance of any resolution passed by the Bar Associations to strike and to stop; judicial work. The District Judge concerned shall not entertain or circulate any such resolutions amongst the Judicial officers in his Judgeship.

2, The Judicial Officers must strictly adhere to Court hours. They shall perform the entire judicial work on the dais and shall not accept any request to rise, on to stop judicial work on the request of lawyers or litigants. In case lawyers do not attend to work the judicial officers shall proceed to work in the following manner:-

A. Where the parties are willing they shall be heard personally and necessary orders shall be passed in cases requiring no further evidence.

B. In matters fixed for evidence parties shall be allowed to file documents and do examinations/cross examinations of witnesses, if so desire.

C. In revisions, review, appeals (Civil and Criminal both), bails and urgent applications, the orders should be passed on merits of the case.

D. In criminal trials of the court of Sessions or Magistrate the witnesses in attendance should be examined by the public prosecutor/prosecuting officer as the case be, giving an option to the accused to either cross examine the witnesses himself or bear

the expenses for recalling of the witnesses, for cross examination on the date (s) next to be fixed.

3. The District judges shall submit weekly reports to the Court, with regard to any incident, which may take place in the judgeship with compliance report of these directives.

4. In case any lawyer or group of lawyers or litigants, creates indiscipline in the Court or try to obstruct court proceedings, the Judicial Officer concerned should immediately inform the District Judge, who shall immediately arrange for the police force and restore the functioning of the Court. In case any damage is caused to the records or the court: property, the District Judge shall immediately get the First Information Report of the incident lodged.

5. The District Judges shall arrange for adequate police force, to be kept in reserve in the judgeship, to be deployed for protection of the judicial officers and the court property.

6. The District Judge should inform the names of the persons involved in disrupting the court proceeding to the High Court forthwith.

7. The Judicial Officers shall not: perform any judicial work in their chambers.

14. By virtue of Article 141 of the Constitution of India, all courts in India are bound to follow :he decision of the Supreme Court. The courts dealing with disputes under the U.P. Land Revenue Act, U.P.Z.A.& L.R.Act and U.P. Consolidation of Holdings Act: are courts and as such these courts cannot turn a blind eye and are bound to abide by the mandate of the Apex court."

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"...16. In view of the above, there is felt need that functioning of the courts created under the statutes i.e. under the U.P.Z.A. & L.R.Act, the U.P. Land Revenue Act and the U.P. Consolidation of Holdings Act and also other courts created under various other Acts dealing with the disputes pertaining to agricultural land, should be regulated simulating the standard of a regular court of law so as to appear to be acting judicially."

23. Again in the year 2012 this Court in ***Chandra Bali Vs.Additional Commissioner, Varanasi Divsion, Varanasi and othes, 2012 (4) ADJ 13*** noticing similar difficulties had to issue a general mandamus prescribing certain directions and timelines and the relevant paragraph 12 and 13 of the said opinion reads as under:-

" 12. In view of the above, I am of the opinion that not only land acquisition cases or other cases for which time period for disposal has been prescribe, all cases incuding revenue cases

and cases arising under the U.P. Z.A. and L.R. Act should also be decided within a time specified.

Time management for disposal of cases is necessary to tackle the problem of arrears and pendency."

13. Accordingly. 1 issue a general mandamus that at least in revenue cases and cases arising under the U. P. Z. A. and L. R. Act. the Courts/authorities must follow a set time table for disposal of cases as provided herein below

(1) All suits/original proceedings under U. P. Z. A. and L. R. Act be decided within a period of one year from their Institution with the outer limit of one year six months;

(2) All appeals arising there to be decided within a period of four months and within the maximum period of six months from the filing:

(3) All revisions be decided within three months and within the maximumperiod of four months from the filing; and

(4) All miscellaneous applications, if pressed, which do not require disposal along with cases/suit, appeal or revision be decided within six weeks of their filing with the outer limit of three months.

In view of the aforesaid facts and circumstances of the case, I dispose of this writ petition with the direction upon respondent No. 1 to decide the above appeal in accordance with law as expeditiously as possible as per the time schedule laid down above.

Let a copy of this judgment and order be sent by the Registry of this Court to the Chief Secretary, Revenue State of U. P., and the Chairman, Board of Revenue at Lucknow and Allahabad for circulation to all revenue courts and authorities for necessary compliance.

24. Despite the aforesaid decisions, it appears that no headway has been made, accordingly, once again the issue engaged the attention of a Division Bench of this Court in a Public Interest Litigation titled ***Yashpal Singh Vs. State of U.P. and others (2015) SCC Online All 6752*** wherein the Court observed as under:-

"This Court directed the Chairman of the Board of Revenue to look into the matter and to take an appropriate administrative decision to obviate the grievances of the members of the Bar. In pursuance of the order of this Court dated 4 December 2015, an affidavit has been filed by the Registrar of the Board of Revenue. The affidavit states that 6,01,543 revenue cases were pending as on 1 January 2015. 14,63,886 new revenue cases were instituted between 1 January 2015 and 31 December 2015. Until 31 December 2015, 14,92,833 revenue cases have been disposed of. In consequence, 5,76,122 revenue cases are still pending for

disposal. These figures indicate to the Court that there has been progress in the matter of streamlining the work of revenue cases and the rates of disposal have increased. However much still remains to be achieved since pendency of 5.76 lacs is itself a substantial figure. As regards, the proposal for creation of a cadre of officers exclusively for the resolution of revenue cases, it has been stated that the Department of Revenue sent the proposal to the Law Department and the Department of Personnel for their consent. It has been stated that the departments concerned have furnished their consent to the proposal. Moreover, it has been stated that in view of the provisions of the Uttar Pradesh Revenue Code 2006, once officers are designated exclusively for judicial work, there would be no shortage of presiding officers.

We are of the view that the State Government must immediately take steps under the enabling provisions of sub section (5) of Section 11 and Section 12 and sub section (6) of Section 13. This would ensure that judicial work is assigned to officers who would only perform judicial duties on the revenue side and would be exempted from administrative functions. Judicial work requires a frame of mind, qualification and experience which are quite different from the discharge of administrative duties and it is but necessary that the provisions which have been contained in the newly enforced provisions of the Code are implemented in the State expeditiously. As regards the proposal for the creation of a cadre, it has been stated that the Finance Department to whom a proposal was submitted for consent had raised certain queries which has been responded to on 22 February 2016 by the Board of Revenue. After the consent of the Finance Department, the proposal would be placed before the Cabinet after obtaining the consent of the Law Department and the Department of Personnel. Since the proposal is now pending before the Government and the Government has indicated its intention to finalize the matter expeditiously, we direct that a final decision thereon should be taken within a period of six months from the receipt of a certified copy of this order.

In view of the enabling provisions which are contained in the provisions of the Code, and since the State Government has initiated steps, we expect that a decision be taken thereon expeditiously within a period of six months. Insofar as the strike by the members of the Revenue Bar Association, Bijnor is concerned, we take on record the undertaking and assurances which have been tendered before this Court in terms of the resolution which has been passed by the Bar. The members of the Bar are expected to display a sense of responsibility particularly having regard to the judgments of the Supreme Court laying down the need for restraint in the striking of work by the members of the legal profession. Nothing further would survive in the public interest litigation at this stage."

25. From the perusal of the aforesaid observations made by the Court in the decisions noticed above, from time to time, it can be seen and noticed that spate of cases seeking expedition of cases pending in the Revenue

Courts has amplified and the problem has assumed a greater proportion now than it was then noticed while rendering the decisions by the Court at earlier point of time.

26. It will also be relevant to notice that with the advent of U.P. Revenue Code, 2006, the legislature in its wisdom has provided timelines for the disposal of the cases which ranges from 45 days to six months depending on the nature of the case.

27. The U.P. Revenue Code Rules, 2016 also gives a list of case, which are to be tried in a summary manner, as enumerated in Rule 192 which is referrable to Section 225-A of the U.P. Revenue Code, 2006.

28. The U.P. Revenue Court Manual Regulations, 2016 contains relevant guidelines for the purposes of conduct of day to day affairs of the cases pending before the Revenue Courts and Authorities. These regulations also came to be amended in the year 2016 wherin Chapter L Rule 494 was duly amended and incorporated which reads as under:-

Chapter L:- Order or Directions for Expeditios Disposal of Cases:-

494:- (i) The Board may suo motu or on the application of a party to the suit, appeal, revision or other proceeding pass general or specific order directing the court below to decide the suit, appeal, revision or other proceeding with the period mumersed in the order.

(2) The applican for direction to decide the suit, appeal, revision or other proceeding within the period stipulated by the Board shall be accompanied by affidavit

(3) Besides the brief facts of the case, the reasons for the delay in disposal of the case shall be disclosed in the affidavit filed in support of the applications and a copy of the entire order sheet or the extract thereof shall be annexed to the affidavit.

(4) The Board shall, while passing the order directing the court below to decide the case within the goland period, keep in mind, the conduct of the party applying for the direction, the comparative urgency for the early disposal of the case and the unther of cases pending in the court concerned

(5) Mere filing of transfer application does not amount to stay of the proceeding in the Court below unless the stay order is passed on the transfer application by the competent Court. The court below shall endeavour to comply with the direction passed by the Board for the expeditious disposal of the case and the

provisions of rule 195 of the Rules, shall, mutatis mutandis, apply regarding the compliance of the order under this para.

29. From the perusal of the Revenue Court Manual, one would find, that it contains comprehensive guidelines and regulations for the day to day functioning of the Revenue Courts which includes mattes relating to daily siting of officers, officer hours, the manner in which the orders have to be passed, preparation of cause lists, carry forward of cases, early hearing of cases, speedy disposal amongst others.

30. In furtherance of the aforesaid, the Board of Revenue which exercises the power of superintendence over the subordinate revenue courts and authorities has also been conferred with the power of expediting cases pending before the Revenue Courts and Authorities. An alarming feature which has come to the notice of the Court as evident from the instructions and the stastactics provided by the learned Standing Counsel indicates that 298 expedite applications were filed before the Board of Revenue between January, 2019 till 30th April, 2022. Out of 298 applications so filed, 210 applications have been decided but what is disturbing is that only 70 such applications were decided within a period of one month while rest of the applications so decided took several months and even years to be decided.

31. From the stastatics so provided, out of the 88 applications still pending, two of them relate to the month of September, 2019 while most of them are from the year 2021 and only 14 applications are such which have been filed in the year 2022 and still pending while we are here in the end of May, 2022.

32. Thus, what can be seen is that an application to seek expedition is taking huge time ranging over several months whereas the U.P. Revenue Act, 2006 as noticed above has provided timelines ranging from 45 days to 6 months for disposal of cases in summary manner.

33. From the aforesaid, it is apparent that an application for expedite is taking more than 6 months to one year or even more for decision then, what can be said of principal litigation of which expedition is sought is only heart wrenching and painful. It needs to be realised that where matters are pending before the Court of first instance relating to the year 1977, 1980s and 1990s and the said litigation has further two tiers of appeal/revision as the case may be. It leaves very little to imagination, what would be the plight of such litigants and how many generations would suffer on account of such unending litigation.

34. Another aspect which has come to the fore from the perusal of the extracts of the ordersheets which are being brought on record in the various petitions, a reference of few has been noticed in the preceeding paragraphs indicates a hugely disturbing trend of abstention of work by lawyers resorting to most unreasonable and unwarrented strikes and boycotts. This Court has come across various cases wherein for months at an end, no judicial work could be transacted on account of resolutions passed by the members of the bar abstaining from judicial work. This is one major cause of delay.

35. The other major cause for pendency reflected from the order sheets appears to be non-availability of the officers who are assigned judicial work but as they are primarily busy in other administrative and executive duties. Unfortunately, this Court finds that the Regulations of 2016 is hardly being followed and the functioning of the Revenue Court and Authorties is indicative that the Presiding Officers are completely oblivious to the said regulations and there is even no effort of its adherence.

37. The third major cause appears to be, the grant of endless adjournment at the asking of any party, least realizing what effect it has on the rights of the parties involved in a litigation. All the above three causative factors have almost brought the functioning of the revenue courts to disrepute for which all the stake holders are responsible.

38. The issue regarding abstention of works and strikes has already been taken note of by the Apex Court in the constitutional Bench case of ***Ex-Captain Harish Uppal Vs. Union of India and others (2003) 2 SCC 45*** and the relevant portion thereof reads as under:-

> *"30. In the light of the abovementioned views expressed by the Supreme Court, lawyers have no right to strike i.e. to abstain from appearing in Court in cases in which they hold vakalat for the parties, even if it is in response to or in compliance with a decision of any association or body of lawyers. In our view, in exercise of the right to protest, a lawyer may refuse to accept new engagements and may even refuse to appear in a case in which he had already been engaged, if he has been duly discharged from the case. But so long as a lawyer holds the vakalat for his client and has not been duly discharged, he has no right to abstain from appearing in Court even on the ground of a strike called by the Bar Association or any other body of lawyers. If he so abstains, he commits a professional misconduct, a breach of professional duty, a breach of contract and also a breach of trust and he will be liable to suffer all the consequences thereof. There is no fundamental right, either under Article 19 or under Article 21 of the Constitution, which permits or authorises a lawyer to abstain from appearing in Court in a case in which he holds the vakalat for a party in that case. On the other hand a litigant has a fundamental right for speedy trial of his case, because, speedy trial, as held by the Supreme Court in Hussainara Khatoon (I) v. Home Secy., State of Bihar [(1980) 1 SCC 81 : 1980 SCC (Cri) 23 : AIR 1979 SC 1360] is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21 of the Constitution. Strike by lawyers will infringe the abovementioned fundamental right of the litigants and such infringement cannot be permitted. Assuming that the lawyers are trying to convey their feelings or sentiments and ideas through the strike in exercise of their fundamental right to freedom of speech and expression guaranteed by Article 19(1)(a) of the Constitution, we are of the view that the exercise of the right under Article 19(1)(a) will come to an end when such exercise threatens to infringe the fundamental right of another. Such a limitation is inherent in the exercise of the right under Article 19(1)(a). Hence the lawyers cannot go on strike infringing the fundamental right of the litigants for speedy trial. The right to practise any profession or to carry on any occupation guaranteed by Article 19(1)(g) may include the right to discontinue such profession or occupation but it will not include any right to abstain from appearing in Court while holding a vakalat in the case. Similarly, the exercise of the right to protest by the lawyers cannot be allowed to infract the litigant's fundamental right for speedy trial or to interfere with the administration of justice. The lawyer has a duty and obligation to cooperate with the Court in the orderly and pure administration of justice. Members of the legal profession have certain social obligations also and the practice of law has a*

public utility flavour. According to the Bar Council of India Rules, 1975 'an advocate shall, at all times, comport himself in a manner befitting his status as an officer of the Court, a privileged member of the community and a gentleman, bearing in mind that what may be lawful and moral for a person who is not a member of the Bar or for a member of the Bar in his non-professional capacity, may still be improper for an advocate'. It is below the dignity, honour and status of the members of the noble profession of law to organize and participate in strike. It is unprofessional and unethical to do so. In view of the nobility and tradition of the legal profession, the status of the lawyer as an officer of the court and the fiduciary character of the relationship between a lawyer and his client and since strike interferes with the administration of justice and infringes the fundamental right of litigants for speedy trial of their cases, strike by lawyers cannot be approved as an acceptable mode of protest, irrespective of the gravity of the provocation and the genuineness of the cause. Lawyers should adopt other modes of protest which will not interrupt or disrupt court proceedings or adversely affect the interest of the litigant. Thereby lawyers can also set an example to other sections of the society in the matter of protest and agitations.

31. Every court has a solemn duty to proceed with the judicial business during court hours and the court is not obliged to adjourn a case because of a strike call. The court is under an obligation to hear and decide cases brought before it and it cannot shirk that obligation on the ground that the advocates are on strike. If the counsel or/and the party does not appear, the necessary consequences contemplated in law should follow. The court should not become privy to the strike by adjourning the case on the ground that lawyers are on strike. Even in Common Cause case [(1995) 1 Scale 6] the Supreme Court had asked the members of the legal profession to be alive to the possibility of Judges refusing adjournments merely on the ground of there being a strike call and insisting on proceeding with the cases. Strike infringes the litigant's fundamental right for speedy trial and the court cannot remain a mute spectator or throw up its hands in helplessness on the face of such continued violation of the fundamental right.

32. Either in the name of a strike or otherwise, no lawyer has any right to obstruct or prevent another lawyer from discharging his professional duty of appearing in court. If anyone does it, he commits a criminal offence and interferes with the administration of justice and commits contempt of court and he is liable to be proceeded against on all these counts."

Further, the Hon'ble Supreme Court in Ex-Capt. Harish Uppal (supra) noticed the consequences of strikes/boycott calls. The Constitution Bench of Hon'ble Supreme Court found that such actions hold the judicial system to ransom and threaten the administration of justice :

"20. Thus the law is already well settled. It is the duty of every advocate who has accepted a brief to attend trial, even though it may go on day to day and for a prolonged period. It is also settled law that a lawyer who has accepted a brief cannot refuse to attend court because a boycott call is given by the Bar Association. It is settled law that it is unprofessional as well as unbecoming for a lawyer who has accepted a brief to refuse to attend court even in pursuance of a call for strike or boycott by the Bar Association or the Bar Council. It is settled law that courts are under an obligation to hear and decide cases brought before them and cannot adjourn matters merely because lawyers are on strike. The law is that it is the duty and obligation of courts to go on with matters or otherwise it would tantamount to becoming a privy to the strike. It is also settled law that if a resolution is passed by Bar Associations expressing want of confidence in judicial officers, it would amount to scandalising the courts to undermine its authority and thereby the advocates will have committed contempt of court. Lawyers have known, at least since Mahabir Singh case [(1999) 1 SCC 37] that if they participate in a boycott or a strike, their action is ex facie bad in view of the declaration of law by this Court. A lawyer's duty is to boldly ignore a call for strike or boycott of court/s. Lawyers have also known, at least since Ramon Services case [(2001) 1 SCC 118 : 2001 SCC (Cri) 3 : 2001 SCC (L&S) 152] that the advocates would be answerable for the consequences suffered by their clients if the non-appearance was solely on grounds of a strike call.

21. It must also be remembered that an advocate is an officer of the court and enjoys special status in society. Advocates have obligations and duties to ensure smooth functioning of the court. They owe a duty to their clients. Strikes interfere with administration of justice. They cannot thus disrupt court proceedings and put interest of their clients in jeopardy. In the words of Mr H.M. Seervai, a distinguished jurist:

"Lawyers ought to know that at least as long as lawful redress is available to aggrieved lawyers, there is no justification for lawyers to join in an illegal conspiracy to commit a gross, criminal contempt of court, thereby striking at the heart of the liberty conferred on every person by our Constitution. Strike is an attempt to interfere with the administration of justice. The principle is that those who have duties to discharge in a court of justice are protected by the law and are shielded by the law to discharge those duties, the advocates in return have duty to protect the courts. For, once conceded that lawyers are above the law and the law courts, there can be no limit to lawyers taking the law into their hands to paralyse the working of the courts. "In my submission', he said that "it is high time that the Supreme Court and the High Courts make it clear beyond doubt that they will not tolerate any interference from any body or authority in the daily administration of justice. For in no other way can the Supreme Court and the High Courts maintain the high position and exercise the great powers conferred by the Constitution and the law to do justice without fear or favour, affection or ill will."

22. It was expected that having known the well-settled law and having seen that repeated strikes and boycotts have shaken the confidence of the public in the legal profession and affected administration of justice, there would be self-regulation. The abovementioned interim order was passed in the hope that with self-restraint and self-regulation the lawyers would retrieve their profession from lost social respect. The hope has not fructified. Unfortunately strikes and boycott calls are becoming a frequent spectacle. Strikes, boycott calls and even unruly and unbecoming conduct are becoming a frequent spectacle. On the slightest pretence strikes and/or boycott calls are resorted to. The judicial system is being held to ransom. Administration of law and justice is threatened. The rule of law is undermined."

The Apex Court further went on and relied on the law laid down in Supreme Court Bar Association Vs Union of India reported at 1998 (4) SCC 409 that every advocate should boldly ignore call for strike/boycott:

"25. In the case of Supreme Court Bar Assn. v. Union of India [(1998) 4 SCC 409] it has been held that professional misconduct may also amount to contempt of court (para 21). It has further been held as follows: (SCC pp. 444-46, paras 79-80)

"79. An advocate who is found guilty of contempt of court may also, as already noticed, be guilty of professional misconduct in a given case but it is for the Bar Council of the State or Bar Council of India to punish that advocate by either debarring him from practice or suspending his licence, as may be warranted, in the facts and circumstances of each case. The learned Solicitor-General informed us that there have been cases where the Bar Council of India taking note of the contumacious and objectionable conduct of an advocate, had initiated disciplinary proceedings against him and even punished him for "professional misconduct', on the basis of his having been found guilty of committing contempt of court. We do not entertain any doubt that the Bar Council of the State or Bar Council of India, as the case may be, when apprised of the established contumacious conduct of an advocate by the High Court or by this Court, would rise to the occasion, and take appropriate action against such an advocate. Under Article 144 of the Constitution "all authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court'. The Bar Council which performs a public duty and is charged with the obligation to protect the dignity of the profession and maintain professional standards and etiquette is also obliged to act "in aid of the Supreme Court'. It must, whenever facts warrant, rise to the occasion and discharge its duties uninfluenced by the position of the contemner advocate. It must act in accordance with the prescribed procedure, whenever its attention is drawn by this Court to the contumacious and unbecoming conduct of an advocate which has the tendency to interfere with due administration of justice. It is possible for the High Courts also to draw the attention of the Bar Council of the State to a case of professional misconduct of a contemner advocate to enable the

State Bar Council to proceed in the manner prescribed by the Act and the Rules framed thereunder. There is no justification to assume that the Bar Councils would not rise to the occasion, as they are equally responsible to uphold the dignity of the courts and the majesty of law and prevent any interference in the administration of justice. Learned counsel for the parties present before us do not dispute and rightly so that whenever a court of record records its findings about the conduct of an advocate while finding him guilty of committing contempt of court and desires or refers the matter to be considered by the Bar Council concerned, appropriate action should be initiated by the Bar Council concerned in accordance with law with a view to maintain the dignity of the courts and to uphold the majesty of law and professional standards and etiquette. Nothing is more destructive of public confidence in the administration of justice than incivility, rudeness or disrespectful conduct on the part of a counsel towards the court or disregard by the court of the privileges of the Bar. In case the Bar Council, even after receiving "reference' from the Court, fails to take action against the advocate concerned, this Court might consider invoking its powers under Section 38 of the Act by sending for the record of the proceedings from the Bar Council and passing appropriate orders. Of course, the appellate powers under Section 38 would be available to this Court only and not to the High Courts. We, however, hope that such a situation would not arise.

80. In a given case it may be possible, for this Court or the High Court, to prevent the contemner advocate to appear before it till he purges himself of the contempt but that is much different from suspending or revoking his licence or debarring him to practise as an advocate. In a case of contemptuous, contumacious, unbecoming or blameworthy conduct of an Advocate-on-Record, this Court possesses jurisdiction, under the Supreme Court Rules itself, to withdraw his privilege to practise as an Advocate-on-Record because that privilege is conferred by this Court and the power to grant the privilege includes the power to revoke or suspend it. The withdrawal of that privilege, however, does not amount to suspending or revoking his licence to practise as an advocate in other courts or tribunals."

Thus a Constitution Bench of this Court has held that the Bar Councils are expected to rise to the occasion as they are responsible to uphold the dignity of courts and majesty of law and to prevent interference in administration of justice. In our view it is the duty of the Bar Councils to ensure that there is no unprofessional and/or unbecoming conduct. This being their duty no Bar Council can even consider giving a call for strike or a call for boycott. It follows that the Bar Councils and even Bar Associations can never consider or take seriously any requisition calling for a meeting to consider a call for a strike or a call for boycott. Such requisitions should be consigned to the place where they belong viz. the waste-paper basket. In case any Association calls for a strike or a call for boycott the State Bar Council concerned and on their failure the Bar Council of India must immediately take disciplinary action against the advocates who give a call for strike and if the Committee members permit

calling of a meeting for such purpose, against the Committee members. Further, it is the duty of every advocate to boldly ignore a call for strike or boycott."

The Hon'ble Supreme Court in Ex-Capt. Harish Uppal (supra) unequivocally asserted that courts are not helpless in this matter:

"26. It must also be noted that courts are not powerless or helpless. Section 38 of the Advocates Act provides that even in disciplinary matters the final appellate authority is the Supreme Court. Thus even if the Bar Councils do not rise to the occasion and perform their duties by taking disciplinary action on a complaint from a client against an advocate for non-appearance by reason of a call for strike or boycott, on an appeal the Supreme Court can and will. Apart from this, as set out in Ramon Services case [(2001) 1 SCC 118 : 2001 SCC (Cri) 3 : 2001 SCC (L&S) 152] every court now should and must mulct advocates who hold vakalatsbut still refrain from attending courts in pursuance of a strike call with costs. Such costs would be in addition to the damages which the advocate may have to pay for the loss suffered by his client by reason of his non-appearance."

The Apex Cour after declining to accept the reasons given to justify a strike or call for boycott, the Hon'ble Supreme Court in Ex-Capt. Harish Uppal (supra) held that lawyers do not have the right to go on strike :

"32. Now let us consider whether any of the reasons set out in the affidavit of the Bar Council of India justify a strike or call for boycott. The reasons given are: (1) Local issues.--A dispute between a lawyer/lawyers and police or other authorities can never be a reason for going on even a token strike. It can never justify giving a call for boycott. In such cases an adequate legal remedy is available and it must be resorted to. The other reasons given under the item "local issues" and even Items (IV) and (V) are all matters which are exclusive within the domain of courts and/or legislatures. Of course the Bar may be concerned about such things but there can be no justification to paralyse the administration of justice. In such cases representations can and should be made. It will be for the appropriate authority to consider those representations. We are sure that a representation by the Bar will always be seriously considered. However, the ultimate decision in such matters has to be that of the authority concerned. Beyond making representations no illegal method can be adopted. At the most, provided it is permissible or feasible to do so, recourse can be had by way of legal remedy. So far as problems concerning courts are concerned, we see no harm in setting up Grievance Redressal Committees as suggested. However, it must be clear that the purpose of such Committees would only be to set up a forum where grievance can be ventilated. It must be clearly understood that recommendations or suggestions of such Committees can never be binding. The deliberations and/or suggestions and/or

recommendations of such Committees will necessarily have to be placed before the appropriate authority viz. the Chief Justice or the District Judge concerned. The final decision can only be of the Chief Justice concerned or the District Judge concerned. Such final decision, whatever it be, would then have to be accepted by all and no question then arises of any further agitation. Lawyers must also accept the fact that one cannot have everything to be the way that one wants it to be. Realities of life are such that, in certain situations, after one has made all legal efforts to cure what one perceives as an ill, one has to accept the situation. So far as legislation, national and regional issues are concerned, the Bar always has recourse to legal remedies. Either the demand of the Bar on such issues is legally valid or it is not. If it is legally valid, of all the persons in society, the Bar is the most competent and capable of getting it enforced in a court of law. If the demand is not legally valid and cannot be enforced in a court of law or is not upheld by a court of law, then such a demand cannot be pursued any further.
33. The only exception to the general rule set out above appears to be Item (III). We accept that in such cases a strong protest must be lodged. We remain of the view that strikes are illegal and that courts must now take a very serious view of strikes and calls for boycott. However, as stated above, lawyers are part and parcel of the system of administration of justice. A protest on an issue involving dignity, integrity and independence of the Bar and the judiciary, provided it does not exceed one day, may be overlooked by courts, who may turn a blind eye for that one day."

Finally the Hon'ble Supreme Court in Ex-Capt. Harish Uppal (supra) laid down nature of right to practise law and the powers of courts by holding thus:

34. One last thing which must be mentioned is that the right of appearance in courts is still within the control and jurisdiction of courts. Section 30 of the Advocates Act has not been brought into force and rightly so. Control of conduct in court can only be within the domain of courts. Thus Article 145 of the Constitution of India gives to the Supreme Court and Section 34 of the Advocates Act gives to the High Court power to frame rules including rules regarding condition on which a person (including an advocate) can practise in the Supreme Court and/or in the High Court and courts subordinate thereto. Many courts have framed rules in this behalf. Such a rule would be valid and binding on all. Let the Bar take note that unless self-restraint is exercised, courts may now have to consider framing specific rules debarring advocates, guilty of contempt and/or unprofessional or unbecoming conduct, from appearing before the courts. Such a rule if framed would not have anything to do with the disciplinary jurisdiction of the Bar Councils. It would be concerning the dignity and orderly functioning of the courts. The right of the advocate to practise envelopes a lot of acts to be performed by him in discharge of his professional duties. Apart from appearing in the courts he can be consulted by his clients,

he can give his legal opinion whenever sought for, he can draft instruments, pleadings, affidavits or any other documents, he can participate in any conference involving legal discussions, he can work in any office or firm as a legal officer, he can appear for clients before an arbitrator or arbitrators etc. Such a rule would have nothing to do with all the acts done by an advocate during his practice. He may even file vakalat on behalf of a client even though his appearance inside the court is not permitted. Conduct in court is a matter concerning the court and hence the Bar Council cannot claim that what should happen inside the court could also be regulated by them in exercise of their disciplinary powers. The right to practise, no doubt, is the genus of which the right to appear and conduct cases in the court may be a specie. But the right to appear and conduct cases in the court is a matter on which the court must and does have major supervisory and controlling power. Hence courts cannot be and are not divested of control or supervision of conduct in court merely because it may involve the right of an advocate. A rule can stipulate that a person who has committed contempt of court or has behaved unprofessionally and in an unbecoming manner will not have the right to continue to appear and plead and conduct cases in courts. The Bar Councils cannot overrule such a regulation concerning the orderly conduct of court proceedings. On the contrary, it will be their duty to see that such a rule is strictly abided by. Courts of law are structured in such a design as to evoke respect and reverence to the majesty of law and justice. The machinery for dispensation of justice according to law is operated by the court. Proceedings inside the courts are always expected to be held in a dignified and orderly manner. The very sight of an advocate, who is guilty of contempt of court or of unbecoming or unprofessional conduct, standing in the court would erode the dignity of the court and even corrode its majesty besides impairing the confidence of the public in the efficacy of the institution of the courts. The power to frame such rules should not be confused with the right to practise law. While the Bar Council can exercise control over the latter, the courts are in control of the former. This distinction is clearly brought out by the difference in language in Section 49 of the Advocates Act on the one hand and Article 145 of the Constitution of India and Section 34(1) of the Advocates Act on the other. Section 49 merely empowers the Bar Council to frame rules laying down conditions subject to which an advocate shall have a right to practise i.e. do all the other acts set out above. However, Article 145 of the Constitution of India empowers the Supreme Court to make rules for regulating this practice and procedure of the court including inter alia rules as to persons practising before this Court. Similarly Section 34 of the Advocates Act empowers High Courts to frame rules, inter alia to lay down conditions on which an advocate shall be permitted to practise in courts. Article 145 of the Constitution of India and Section 34 of the Advocates Act clearly show that there is no absolute right to an advocate to appear in a court. An advocate appears in a court subject to such conditions as are laid down by the court. It must be remembered that Section 30 has not been brought into force and this also shows that there is no absolute

right to appear in a court. Even if Section 30 were to be brought into force control of proceedings in court will always remain with the court. Thus even then the right to appear in court will be subject to complying with conditions laid down by courts just as practice outside courts would be subject to conditions laid down by the Bar Council of India. There is thus no conflict or clash between other provisions of the Advocates Act on the one hand and Section 34 or Article 145 of the Constitution of India on the other.

35. In conclusion, it is held that lawyers have no right to go on strike or give a call for boycott, not even on a token strike. The protest, if any is required, can only be by giving press statements, TV interviews, carrying out of court premises banners and/or placards, wearing black or white or any colour armbands, peaceful protest marches outside and away from court premises, going on dharnas or relay fasts etc. It is held that lawyers holding vakalats on behalf of their clients cannot refuse to attend courts in pursuance of a call for strike or boycott. All lawyers must boldly refuse to abide by any call for strike or boycott. No lawyer can be visited with any adverse consequences by the Association or the Council and no threat or coercion of any nature including that of expulsion can be held out. It is held that no Bar Council or Bar Association can permit calling of a meeting for purposes of considering a call for strike or boycott and requisition, if any, for such meeting must be ignored. It is held that only in the rarest of rare cases where the dignity, integrity and independence of the Bar and/or the Bench are at stake, courts may ignore (turn a blind eye) to a protest abstention from work for not more than one day. It is being clarified that it will be for the court to decide whether or not the issue involves dignity or integrity or independence of the Bar and/or the Bench. Therefore in such cases the President of the Bar must first consult the Chief Justice or the District Judge before advocates decide to absent themselves from court. The decision of the Chief Justice or the District Judge would be final and have to be abided by the Bar. It is held that courts are under no obligation to adjourn matters because lawyers are on strike. On the contrary, it is the duty of all courts to go on with matters on their boards even in the absence of lawyers. In other words, courts must not be privy to strikes or calls for boycotts. It is held that if a lawyer, holding a vakalat of a client, abstains from attending court due to a strike call, he shall be personally liable to pay costs which shall be in addition to damages which he might have to pay his client for loss suffered by him."

39. This was further taken note of by the Apex Court in ***Krishna Kant Tamrakar Vs. State of M.P.*** reported in ***(2018) 17 SCC 27***. Lately, the Apex Court again in ***District Bar Association, Dehradun Vs. Ishwar Shandilya and others*** reported in ***AIR (2020) SC 1412,*** Considering the earlier Authorities on the said point thereafter in para 7 has held as under:-

> "7. *As observed hereinabove, in spite of the decisions of this Court in the cases of Ex-Capt Harish Uppal (supra), Common Cause, A Registered Society (supra) and Krishnakant Namrakar (supra) and despite the warnings by the courts time and again, still, in some of the courts, the lawyers go on strikes/are on strikes. It appears that despite the strong words used by this Court in the aforesaid decisions, criticizing the conduct on the part of the lawyers to go on strikes, it appears that the message has not reached. Even despite the resolution of the Bar Council of India dated 29.09.2002, thereafter, no further concrete steps are taken even by the Bar Council of India and/or other Bar Councils of the States. A day has now come for the Bar Council of India and the Bar Councils of the States to step in and to take concrete steps. It is the duty of the Bar Councils to ensure that there is no unprofessional and unbecoming conduct by any lawyer. As observed by this Court in the case of Ex-Capt. Harish Uppal (supra), the Bar Council of India is enjoined with a duty of laying down the standards of professional conduct and etiquette for Advocates. It is further observed that this would mean that the Bar Council of India ensures that advocates do not behave in an unprofessional and unbecoming manner. Section 48 of the Advocates Act gives a right to the Bar Council of India to give directions to the State Bar Councils. It is further observed that the Bar Associations may be separate bodies but all advocates who are members of such associations are under disciplinary jurisdiction of the Bar Councils and thus the Bar Councils can always control their conduct.* ***Therefore, taking a serious note of the fact that despite the aforesaid decisions of this Court, still the lawyers/Bar Associations go on strikes, we take suo moto cognizance and issue notices to the Bar Council of India and all the State Bar Councils to suggest the further course of action and to give concrete suggestions to deal with the problem of strikes/abstaining the work by the lawyers. The Notices may be made returnable within six weeks from today. The Registry is directed to issue the notices to the Bar Council of India and all the State Bar Councils accordingly.****"*

40. Having noticed the aforesaid decisions, it would be relevant to see that the dictum of the Apex Court is binding on all Courts and Authorities in the country in terms of Article 141 of the Constitution of India. This equally applies on all the revenue courts and authorities. Thus, it cannot be said that the Revenue Courts and Authorities can be exempted or not bound by the decisions. The Revenue Courts must take note of the aforesaid decisions and ignore any such resolutions passed by the local Bar Associations which has the effect of paralyzing the functionings of the Courts and in turn cause insurmountable difficulties for the litigants.

41. In terms of the U.P. Revenue Court Regulations, 2016, the Authorities must devote time for judicial functioning and ensure timely disposal of the cases. The Board of Revenue being the highest court supervising the functioning of the Revenue Courts and Authorities must have regular mechanism to monitor the functioning and oversee the disposal of cases. An effort must be made to oversee and monitor what efforts are made by the Presiding Officers in deciding the revenue cases. The grant of adjournments at the asking is not the answer rather a pro-active approach is required to be adopted by the Courts before it gets too late. An overnight improvement in the scenario may not be possible but it requires a consultative and continuous effort by all the stake holders including the members of the Bar who are requested to act more responsibly looking into the fact that they are an integral part of the justice delivery system.

42. In this regard, this Court had the occasion to consider the similar issue in W.P. No. 1142 of 2022 (Sabhajeet Vs. Consolidation Officer, Bikapur Ayodhya and others) wherein on 04.05.2022, the Court had passed the following order which reads as under:-

> *"Heard learned counsel for the petitioner as well as learned Additional Chief Standing Counsel for the State-respondents.*
>
> *The petitioner has approached this Court with the following prayer, which reads as under:-*
>
> *"(a) direct the Consolidation Officer, Tehsil-Bikapur, Ayodhya, Opposite Party No.1 to decide the Case No.501 and Case No.502 (Ram Baran vs. Ram Lal) filed by the petitioner and opposite party No.2 U/S 9-A(2) of the C.H. Act which is pending before the Opposite Party No.1.*
>
> *(b) pass any other order or direction as this Hon'ble Court may deem just and proper in the circumstances of the case in favour of the petitioner.*
>
> *(c) allow the petition with costs."*

This Court on 20.04.2022 had passed the following order which reads as under:-

"Heard the learned counsel for the petitioner. Notice on behalf of the respondent no.1 has been accepted by the office of the Chief Standing Counsel.

The grievance of the petitioner is that the petitioner has filed objections under Section 9-A(2) of the U.P. C.H. Act before the Consolidation Officer since 1989.

Learned Standing Counsel shall seek instructions and inform the Court the reasons with sufficient particularity as to why the proceedings have yet not been decided when the objections are pending since 1989. Proper details shall be provided within a period of ten days.

List this matter again on 2nd of May, 2022, as fresh."

In pursuance of the order dated 20.04.2022, the learned Additional Chief Standing counsel has submitted that he has received the instructions and on the basis thereof he has sought to justify the pendency of the objections preferred under Section 9-A(2) of the U.P. Consolidation and Holdings Act, 1953 pending since 1989.

The learned Additional Chief Standing counsel submits that the evidence of the petitioner is complete and though time was granted to the private-respondent No.2 and on one occasion the matter also proceeded ex-parte but yet the matter remained pending and now the matter shall be decided soon and a request was made for reasonable time of three months to decide as the Court is held twice a week only.

The explanation as put forward by the learned Additional Chief Standing Counsel on the basis of written instructions received by him cannot be accepted. The casual manner in which it has been informed through the written instructions that though the evidence of the present petitioner had concluded and the private-respondent No.2 was taking time and in order to avoid the same once the matter had also proceeded ex-parte against the private-respondent, yet again the matter remained pending for the evidence of the private-respondent, this explanation is not good enough.

It is high time that the Revenue/Consolidation Authorities realized that they cannot take the matters so casually and lightly where they are bound to perform judicial and quasi-judicial function relating to disputes of farmers and land holders.

For a farmer his entire livelihood and future and that too of his family is at stake and connected with his land holding. The instant case is an example where the matter is pending before the Court of first instance since 1989. More than thirty years have gone by and the manner in which the explanation has been given that the matter shall be decided soon shows insensitivity least realizing that thirty years is not a short span of time.

The Presiding Officers of Revenue Courts cannot remain mute spectators permitting the parties to prolong the litigation with an

indifferent attitude. The Presiding Officer must take proactive measures to bring the lis to its conclusion so that no party may abuse the process of law or take advantage of procedural tactics to keep the matter pending indefinitely. This will not only result in timely disposal of cases but will also reinforce the faith of the litigating public in the judicial system.

In the facts and circumstances of this case, the Court takes an exception to the explanation furnished, however, in view of the order proposed to be passed by the Court, notice to the private-respondent No.2 is dispensed with.

The petition is disposed of with a direction to the respondent No.1 to take up the matter on weekly basis. It has been informed that the matter is fixed on 16.05.2022 and the Presiding Officer shall make an endeavour to decide the matter within a period of four weeks from the date an authenticated copy of this order is placed before him, after affording full opportunity of hearing to the parties, but without granting any unnecessary adjournment to either of the parties. The parties shall also cooperate in early hearing and in case if any party is found to be misusing the liberty, appropriate costs be imposed. The matter would be taken up on the date fixed as deemed convenient by the Presiding Officer irrespective of any resolution passed by the Members of the Bar and the matter would be heard and taken forward to be finally decided within the time span as mentioned above.

It is also made clear that the Court has not examined the case of either of the parties on merits and the respondent No.1 shall decide the lis strictly in accordance with law.

Before parting, it may be observed that this Court is seeing a deluge of petitions filed under Article 227 of the Constitution of India seeking expeditious disposal of cases pending before the Revenue Courts. The common ground taken in almost all the petitions is the casual manner and attitude with which frequent adjournments are granted and frequent dates due to non holding of the Courts by the Presiding Officer, grant of general dates for reasons such as resolution passed by the Members of the Bar amongst others.

This Court has to spend considerable time to pass orders on such petitions which is unproductive and precious judicial time is wasted which can be better utilized for deciding substantive litigation.

In view of the aforesaid, this Court deems fit that the matter should be noticed by the appropriate authorities at the State level and administration to frame proper guidelines for disposal of old cases in time bound fashion to be monitored regularly so that the guidelines do not remain only on paper but are truly implemented so that the litigants from the rural section of the society can get succor and respite from vicious cycle of unending dates, without substantive hearing, causing heavy pendency of old cases.

A copy of this order be communicated to the Principal Secretary (Revenue), State of U.P. through the Senior Registrar of this Court, who shall device an action plan for time bound disposal of

old matters and its constant monitoring, within six weeks and place a report before this Court on 08.07.2022.

The matter shall be listed again on 08.07.2022 only for the purpose of the report to be furnished, as above.

42. A word of caution is sounded that the members of the Bar must rise to the occasions and be an equal partner in easing out the situation rather than becoming stumbling blocks in the peaceful and smooth dispensation of justice. Lately, noticing this aspect, a coordinate Bench of this Court in Contempt Application (Civil) No. 1008 of 2022 (Pawan Kumar and Another Vs. Dewa Nand Tiwari) vide order dated 19.05.2022 has issued notices of contempt against members of local Bar Association and the order reads as under:-

1. Heard Sri Vijay Kumar Shukla, as well as Sri G.K. Singh, learned Additional Chief Standing Counsel.

2. By means of order dated 05.07.2022 passed in Writ Petition No. 13607 (MS) of 2021, this court while disposing of the writ petition had directed the Tehsidarl, Alapur, District Ambedkar Nagar to make earnest endeavour to decide the case expeditiously.

3. Learned counsel for applicant has annexed a copy of order-sheet of the proceedings of the Case No. 04060/2018 under Section 34 of U.P. Revenue Code. According to which on most of the dates, the proceedings could not take place on account of strike of the Local Bar Association and hence the present contempt petition has been filed against the authorities for not complying with the order of the writ court.

4. It is submitted that frequent call of strikes by the bar association is in gross violation of the judgments of the Hon'ble Supreme Court in the cases of Ex-Capt. Harish Uppal Vs. Union of India and another reported in 2003 (2) SCC 45 and Hussain and another Vs. Union of India reported in 2017 (5) SCC 702 as well as of this Court in the case of Vinod Kumar Vs. Naib Tehsildar, and Ors., Misc. Single No. 23446 of 2019.

5. It is also stated that the poor litigants whose cases are pending before the revenue courts for a very long time having no other remedy approached this Court in exercise of jurisdiction under Article 226/227 of the Constitution of India to seek direction for expeditious disposal of the cases like the mutation, partition for which time period has also been specially prescribed under the various laws including the U.P. Revenue Code extending from 90 days to six months etc. Much after expiry of prescribed time when the cases are not decided, they approached this Court seeking a

suitable direction to the concerned authorities to decide their cases expeditiously. Like in the present case, the writ court has directed the S.D.M. concerned to decide the case under Section 12 of U.P. Panchayati Raj Act within the stipulated period which has been fixed as six months by the order of the Court.The cases remain pending as the call for boycott from judicial work by local Bar Association is very frequent, and no judicial work is carried out during that day.

6. Hon'ble the Supreme Court vide order dated 28.02.2020 passed in District Bar Association, Deharadun through its Secretary Vs. Ishwar Shandilya & Ors, Special Leave petition (Civil) No. 5440 of 2020, has held as under:-

"35. In conclusion, it is held that lawyers have no right to go on strike or give a call for boycott, not even on a token strike.

..... It is held that lawyers holding vakalats on behalf of their clients cannot refuse to attend courts in pursuance of a call for strike or boycott. All lawyers must boldly refuse to abide by any call for strike or boycott. No lawyer can be visited with any adverse consequences by the Association or the Council and no threat or coercion of any nature including that of expulsion can be held out. It is held that no Bar Council or Bar Association can permit calling of a meeting for purposes of considering a call for strike or boycott and requisition, if any, for such meeting must be ignored. It is held that only in the rarest of rare cases where the dignity, integrity and independence of the Bar and/or the Bench are at stake, courts may ignore (turn a blind eye) to a protest, abstention from work for not more than one day. It is being clarified that it will be for the court to decide whether or not the issue involves dignity or integrity or independence of the Bar and/or the Bench"

7. The order-sheet clearly indicates that one of the main reasons for not conclusion of the proceedings is the strike called for by the Bar Association and despite the order passed by this Court, the cases could not be decided.

8. Sri G.K. Singh, learned Additional Chief Standing Counsel has informed following office bearers of the Local Bar Association, Aalapur, Ambedkar Nagar.
(i) Sri Ram Prakash Tiwari, President, Bar Association, Tehsil - Aalapur, District Ambedkar Nagar.

(ii) Sri Krishna Gopal Mishra, Ex-President, Bar Association, Tehsil - Aalapur, District Ambedkar Nagar.

(iii) Sri Yogendra Yadav, Secretary, President, Bar Association, Tehsil - Aalapur, District Ambedkar Nagar.

10. Accordingly, learned counsel for applicant is directed to implead the aforesaid office bearers forthwith.

11. In view of the above, professional misconduct of a lawyer may also amount to contempt of court.

12. Accordingly, issue notice to newly added respondent Nos. 2 to 4 to show cause through counsel as to why contempt proceedings should not be initiated against them for frequently calling for strikes of the bar association due to which the judicial work of the revenue courts is affected which is amount to willful disobedience of the judgment passed by Hon'ble Supreme Court in the case Ex-Capt. Harish Uppal (Supra), Hussain (Supra), District Bar Association Dehradun (Supra) as well as direction of the Court vide order 05.07.2022 passed in Writ Petition No. 13607 (MS) of 2021.

13. Learned counsel for applicant shall take steps within one week.

14. List this case on 29.07.2022.

15. On the said date, newly added respondent Nos. 2 to 4 shall appear in person before this Court.

43. It is high time when a concerted effort has to be made by all stake holders to arrest the situation from getting any worse than it already is and devise a roadmap to improve the working and functioning of revenue courts and disposal of old cases.

44. It is in this view of the matter that the Court takes cognizance of the matter and directs the (i) Chief Secretary (Revenue), State of U.P. (ii) Chairman Board of Revenue both at Prayagraj and Lucknow and (iii) Principal Secretary (Law) and to take note of the systematic delay which is deeply rooted in the system and monitor the same by not only instructing the officers to follow the Regulations of 2016 but by continuous monitoring as well as inform this Court what efforts, ways and means have been devised by the State to ensure that the litigation pending before the Revenue Courts are decided on priority and also hold consultative dialogues with the members of the Bar by inviting the members of the Bar Council who is the representative body of the lawyers in the State and devise a Scheme, methodology for shunning the practice

of strikes and proceeding ahead in deciding matters judicially for ameliorating the plight of the litigants.

45. A copy of this order be circulated to the (i) Chief Secretary (Revenue), State of U.P. (ii) Chairman, Board of Revenue at Prayagraj and Lucknow (iii) Principal Secretary (Law), State of U.P., (iv) Chairman, Bar Council of Uttar Pradesh through the Senior Registrar of this Court and let the matter be placed before this Court on 3rd of August, 2022 on which date the State and other Authrities shall inform what steps have been taken to ameliorate and ease out the grave situation as noticed hereinabove.

[Jaspreet Singh, J.]

Order Date: 31st May, 2022
Asheesh