



HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 28925 of 2026

Laxmikant Aggarwal

.....Petitioner(s)

Versus

State of U.P. and others

.....Respondent(s)

Counsel for Petitioner(s)	: Devbratt Yadav, Phool Singh Yadav, Ram Pratap Yadav
Counsel for Respondent(s)	: C.S.C.

Court No. - 2

HON'BLE J.J. MUNIR, J.

HON'BLE INDRAJEET SHUKLA, J.

1. Heard learned Counsel for the petitioner and Mr. Girijesh Kumar Tripathi, learned Additional Chief Standing Counsel appearing on behalf of the State.

2. The petitioner purchased Plot No. 2149/2-4-0 and Plot No. 2150/2-4-0, aggregating an area of 4-8-0, situate in Village Visayakpur Raniya, Tahsil Akbarpur, District Kanpur Dehat through a registered sale deed dated 20.05.1988 from its recorded *bhumidhar*, Smt. Suryakali, wife of Indu Prakash. After purchasing the aforesaid plots, the name of the petitioner has been mutated in the record of rights (*khatauni*). The land was converted to commercial use by an order dated 12.03.2007 passed by the Sub-Divisional Officer, Tahsil Akbarpur, Kanpur Dehat. After change in the user of land, a paper mill, to wit, L Kant Paper Mill, was established there.

3. It is the petitioner's case that respondent no. 7, Amrish Pratap Singh *alias* Annu Singh, who is an anti-social element with a criminal background, had his eyes on the said property, and with the passage of time, the paper mill was closed. The whole property was there along with

other equipments. Respondent no. 7 trespassed into the said property illegally, along with anti-social elements, employing muscle power available at his command, and grabbed the same. Respondent no. 7 is said to have a history of seven criminal cases registered against him, a summary of which is mentioned in paragraph no. 6 to the writ petition.

4. The case of the petitioner further is that he is a senior citizen, now aged 70 years. He is not capable of fighting out with physical force. Rather, it would amount to taking the law into his own hands. The petitioner says that in these circumstances, he has moved an application before the District Magistrate, Kanpur Dehat, seeking the efficacious remedy to get the property of the petitioner vacated from illegal encroachment done by respondent no. 7. The petitioner places reliance on a Government Order dated 01.05.2017, where, provision has been made against land grabbing, setting up something called an Anti Land Grabbing Committee, constituted at the level of the *tahsil* as well as the district. The Committee is empowered to inquire into land grabbing matters, and after inquiry, the Committee has power to get it vacated by causing necessary force to be used.

5. At this stage, when we have looked into this Government Order, we are surprised that a Government Order has come to be issued, virtually transferring judicial power of the State to an administrative committee *dehors* the statute by an executive order. We are informed at the Bar that this Government Order is already under challenge in a writ petition before this Court, being Writ - C No. 6142 of 2025, Ramesh Khateek v. State of U.P. and others.

6. The petitioner then goes on to say that he is a peace loving and law

abiding senior citizen, and is running from pillar to post, making applications to authorities, but to no avail. He has submitted an application to the Hon'ble The Chief Minister at the *Janta Darshan*, which has been received, and there is a remark, directing the Superintendent of Police, Kanpur Dehat for taking appropriate legal action. It is also said that this application too has gone unheeded. It is also pleaded in the writ petition that in order to create a frivolous dispute, or rather a defence, in respect of a different property, respondent no. 7 has filed a suit before the learned Civil Judge (Senior Division), Kanpur Dehat, being Original Suit No. 520 of 2024, Ambrish Pratap Singh v. Laxmikant and others, with an ulterior motive to create a dispute regarding the petitioner's property. No injunction has been granted in his favour in the said suit.

7. Now comes the most important stage in the petitioner's pursuit for justice. He says that he approached this Court by instituting Writ - C No. 8209 of 2026, seeking enforcement of the Government Order dated 01.05.2017 for the purpose of directing authorities to remove encroachment from his land, as he says, that being a senior citizen, he is not capable of litigating in a suit, and needs an efficacious remedy. We have looked into the order passed by this Court in Writ - C No. 8209 of 2026, which reads :

1. Heard learned counsel for the parties and perused the records.

2. By means of this petition filed under Article 226 of the Constitution, petitioner has prayed for following relief:

"(i). Issue a writ, order or direction in the nature of

mandamus commanding District Magistrate Kanpur Dehat to take appropriate Legal action by invoking the Government Order dated 01.05.2017 for protecting the property of the petitioner namely Laxmikant Paper Mill Ltd. situated in Village Vishayakpur P.S. Raniya District Kanpur Dehat from the private respondents who are land grabbers and land mafias by extending the necessary security assistance, in the better interest of justice."

3. In our considered view, the relief is in the nature of injunction arising out of a pure civil dispute which may involve disputed questions of fact and hence, petitioner may avail remedy of civil suit, if so advised. Accordingly, we decline to grant indulgence in the matter.

4. Subject to aforesaid liberty, this petition is consigned to records.

8. If this petition had come up for the first time before us, we too would have asked the petitioner to go to the Civil Court and seek his remedies. Surprisingly, the petitioner having been once asked to go to the Civil Court, has come back to this Court again with the same relief, albeit in a different mould. Earlier, the relief was for a *mandamus* to issue a direction to the District Magistrate, Kanpur Dehat to take action under the Government Order dated 01.05.2017, and now, the relief sought is a *mandamus* to direct the District Magistrate to hold an inquiry into this matter by invoking provisions of Rules 21 and 22 of the Uttar Pradesh Maintenance and Welfare of Parents and Senior Citizens Rules, 2014 for providing protection of life and property to the petitioner, being Plot Nos. 2149 and 2150 (*supra*).

9. The two reliefs are identical, and this petition is certainly, therefore, not the petitioner's first writ petition. By an earlier order, we required the

petitioner to approach the Civil Court, but he says that a Civil Court is not a fit place for senior citizens to suit their rights. It is true that on account of various forces operating, most particularly, the litigating public themselves, Civil Courts have been pushed back into a shell from vigorously exercising their plenary jurisdiction. Some of their powers have been grossly curtailed by statutes, excluding their jurisdiction. But none of this would deprive the Civil Court of the jurisdiction, which it rightfully possesses to decide all questions that are civil in nature and grant relief, unless and until, the jurisdiction is expressly, or by necessary implication, barred. The petitioner complains of trespass, and his action would be against a trespasser, seeking to recover possession on the basis of title. The petitioner is almost desperate in approaching us for a second time with the same relief. We endeavoured to inquire into his hesitation. His hesitation stems from the long time consumed by the Civil Courts, and, in large measure, on account of *ad valorem* system of Court fee leviable on actions instituted before the Civil Court.

10. The apprehensions of the petitioner are not entirely ill-founded, but the law is what it is. The petitioner has to seek his remedies before the Civil Court and cannot ask us to convert the Collector into a Judge trying civil actions for senior citizens. At the same time, we would recommend to the Government to consider ameliorating the hardship caused by taxing civil justice at *ad valorem* rates. It does not seem to fit into the constitutional scheme. We do not say that Court fee should not be charged, but to tax justice at *ad valorem* rates is, indeed, harsh.

11. Given the totality of circumstances, we regret that we are unable to extend any assistance to the petitioner and must require him to approach the Civil Court of competent jurisdiction for the relief that he seeks.

12. Subject to the above remarks, this petition stands **disposed of**.

13. Let this order of ours be communicated, by the Registrar (Compliance), to the Chief Secretary, Government of U.P., Lucknow, the Principal Secretary, Department of Revenue, Government of U.P., Lucknow, both through the learned Chief Judicial Magistrate, Lucknow as also the Principal Secretary (Law) and Legal Remembrancer (L.R.), Government of U.P., Lucknow for consideration of the Government.

(Indrajeet Shukla,J.) (J.J. Munir,J.)

July 28, 2026

I. Batabyal