

**High Court of Judicature at Allahabad
(Lucknow)**

Neutral Citation No. - 2025:AHC-LKO:36501-DB

Reserved on:06.05.2025

Delivered on:26.06.2025

Court No. - 4

Case :- WRIT - C No. - 11176 of 2024

Petitioner :- Smt. Raj Lakshmi And 3 Others

Respondent :- State Of U.P. Thru. Its Secy. Deptt. Of Revenue
Lko. And 6 Others

Counsel for Petitioner :- Birendra Pratap Singh,Anurag Shukla

Counsel for Respondent :- C.S.C.

Hon'ble Rajan Roy,J.

Hon'ble Om Prakash Shukla,J.

1. Heard Shri Anurag Shukla, learned counsel for the petitioners, Shri Manish Mishra, learned Additional Chief Standing Counsel for the State and Shri M.A. Khan, learned Senior Counsel assisted by Shri Ashutosh Ojha, learned counsel appearing for applicant Shri Anuj Pratap Singh seeking impleadment.

2. This writ petition has been filed by the petitioners seeking following reliefs:-

*"i) Issue, a writ order or direction in the nature of
mandamus commanding and directing the Opp.*

Parties to maintain/restore the land of the petitioners in the same position as was previously existing on the spot of property which was dispossessed by the opp. parties during the pendency of the second appeal No-131 of 2024 (Smt. Raj Lakshmi and others versus Smt. Usha Singh and others) pending before the Hon'ble High Court.

ii) Issue, a writ order or direction in the nature of mandamus commanding and directing the opp. party No-1 and 2 to take disciplinary action against the opp. party No.-3 to 7 who have illegally dispossessed the petitioners from their land without adopting any legal procedure and punish the erring officers for impugned illegal action and also to pay the compensation for the damages made under the impugned act to the petitioners, in the interest of justice."

3. On 01.05.2025 we had passed the following order:-

"1. Impleadment application filed today by Shri Ashutosh Ojha, Advocate on behalf of proposed opposite party No.8 and Vakalatnama filed today by Shri Anurag Shukla, Advocate on behalf of the petitioners are taken on record.

2. Let the petitioners file an objection, if any, to the aforesaid impleadment application before the next date of listing.

3. Heard.

4. The petitioner alleges dispossession on 17.11.2024 by the local police and revenue officials during pendency of a Second appeal bearing No.131 of 2024 (Smt. Raj Laxmi and Others vs. Smt. Usha Singh and Others) against judgment and decree dated 15.03.2008 and appellate decree dated 03.04.2024 passed by a Civil Court, by exercising coercion. On 20.12.2024 we had passed the following order:-

"Heard.

The allegation is of dispossession without following procedure prescribed in law and without any notice or opportunity to the petitioners.

Let counter affidavit be filed in the matter within four weeks.

Rejoinder affidavit, if any, be filed within one week thereafter.

List this case on 27.01.2025 as fresh."

5. In response, a counter affidavit has been filed by Naib Tehsildar, Anand Kumar on behalf of opposite party No.3, 5 and 6, paragraph No.4 of which reads as under:-

"4. That in compliance of the order of the Additional District Judge, Court No.1, Pratapgarh dated

03.04.2024 passed in Civil Appeal No.73/1989; Ram Lallan Singh and others Vs. Savitra Devi and others, the directions were given by the Secretary, Home Department, U.P. Government vide letter dated 07.10.2024, in pursuance of which the District Magistrate, Pratapgarh vide letter No.2724/Shivir-2024 dated 08.10.2024 and Additional Superintendent of Police, Pratapgarh vide letter No.ST-A.Pu.A.(P)-Nirdesh/2024 issued directions to constitute a joint team of revenue and police in pursuance of the complaint application of Shri Rajendra Bahadur, R/o Village Gambhira, P.S. Jethwara, Post Katragulabsingh, District Prataph and ensure to vacate/remove the encroachment from the illegal occupants in compliance of the order of the Learned Court of Additional District, Court No.1, Pratapgarh."

We have perused others paragraphs of the counter affidavit also.

6. No doubt, there is no interim order in the aforesaid second appeal but if there is a decree passed which is under appeal, the only recourse open to the decree holder, in law, is to get the same executed. We fail to understand as to how Secretary, Department of Home, Government of U.P. could write a letter dated 07.10.2024 to the District Magistrate, Pratapgarh for dispossession of the petitioners in the garb of getting alleged illegal encroachment removed from the land/premises which is subject matter of second appeal referred above in pursuance to a complaint made by one Shri Rajendra Bahadur Singh, who was a

defendant in the suit and is a party in the second appeal as informed. It is indeed surprising that in pursuance to the said letter dated 07.10.2024 of the Secretary, Department of Home, Government of U.P., namely-Dr. Sanjeev Gupta, the District Magistrate, Pratapgarh and the Additional Superintendent of Police, Pratapgarh constituted a joint team of revenue officials and police personnel on the aforesaid complaint of Shri Rajendra Bahadur Singh for ensuring eviction/removal of encroachment. We have been informed that the petitioners have been dispossessed by the revenue officials and police personnel in compliance of the aforesaid directions of the State Government.

7. The letter dated 07.10.2024 issued under the signature of Dr. Sanjeev Gupta, Secretary, Department of Home, Government of U.P. which has been placed before us by the Counsel for the petitioners, is taken on record.

8. This is a serious matter. The process of law is being interfered and flouted by the administrative authorities. If there is a decree of a Civil Court, it can be executed by Executing Court as per the provisions of Code of Civil Procedure. It is not a case where any direction was issued by the Executing Court in compliance of which dispossession has taken place. Dispossession is alleged on Administrative orders which are prima facie de hors the provisions of law.

9. Let the District Magistrate, Pratapgarh, Superintendent of Police, Pratapgarh as also the

Additional Superintendent of Police, Pratapgarh, Station House Officer, Police Station-Jethwara, Pratapgarh and the then Secretary, Department of Home, Government of U.P., Dr. Sanjeev Gupta even if he has been transferred elsewhere appear before this Court on the next date and explain as to under which authority of law, when there is a procedure prescribed for execution of decrees of Civil Court, dispossession was ordered de hors the procedure prescribed.

10. The official opposite parties shall also bring on record formally the letter dated 07.10.2024 referred in paragraph No.4 of the counter affidavit filed on their behalf before the next date and shall also produce the original file, if any, which may contain the said letter.

11. List this case on 06.05.2025.

12. Shri Manish Mishra, learned Additional Chief Standing Counsel for the State shall communicate our order to the Additional Chief Secretary, Home, Government of U.P. for ensuring compliance.

13. Let a copy of this order be provided to the parties today, if possible."

4. In response to it personal affidavit has been filed by the then Secretary (Home) Dr. Sanjeev Gupta as also by the District Magistrate, Pratapgarh.

5. The only reason we had passed the aforesaid order was the letter/order dated 07.10.2024 issued by the then Secretary

(Home) Dr. Sanjeev Gupta based on which the petitioners were dispossessed without following the procedure prescribed in law and without taking recourse to legal proceedings before any Court i.e. dispossession took place merely on the basis of an administrative letter, however, we were not informed about the fact that the brother of the petitioner no. 4- Ran Vijay Singh, who claims a right to the land in question on the same basis, had earlier filed a writ petition bearing Writ- C No. 10291 of 2024 specifically challenging the said order/ letter of the then Secretary (Home) dated 07.10.2024. The reliefs clause of the aforesaid writ petition is quoted herein below:-

"i) Issue, a writ order or direction in the nature of certiorari thereby quash the impugned order dated 07.10.2024 and also its consequential effect, passed by the Opp. Party No-2, contained in Annexure No.-1 to this writ petition.

ii) Issue, a writ order or direction in the nature mandamus commanding and directing the opp. parties to restore the possession of the petitioner forthwith, disturbed under the order impugned, and further direct the opp. parties to pay the compensation for the damages made under the impugned action, in the interest of Justice."

6. The aforesaid writ petition was rejected on 10.12.2024 in the following terms:-

"1. Second Appeal No.131 of 2024 related to the same subject matter is sub-judice before this Court, wherein, the petitioner has made an application for impleadment.

2. The Second Appeal at the instance of the vendor from whom the possessory rights have descended to the petitioner under a sale deed that too executed during pendency of the suit proceedings, the rights of the petitioner can be well adjudicated upon in the Second Appeal and for any incidental cause, it is open to the petitioner to make an appropriate application before the Court concerned.

3. The writ petition in respect of a civil dispute between the parties is not maintainable, therefore, with the liberty as above, the writ petition is hereby rejected."

7. In this writ petition, although, a writ of mandamus has been sought and the letter dated 07.10.2024 has not been specifically challenged as was done in the earlier writ petition by Ran Vijay Singh, the fact of the matter is that the petitioners were dispossessed on 17.11.2024 by the Revenue and Police Officials, District - Pratapgarh in pursuance to a nonest letter of the then Secretary (Home), Government of U.P., Lucknow dated

07.10.2024, therefore, they have sought a writ of mandamus for restoring their possession without challenging the letter dated 07.10.2024 but in considering this relief we have to take into consideration the letter dated 07.10.2024, as, it is the genesis of the cause of action for this writ petition.

8. In fact, it appears that the aforesaid order dated 10.12.2024 was annexed with impleadment application, but, we were not informed that in fact the letter/order dated 07.10.2024, in respect of which we had made the observations in the order dated 01.05.2025, was impugned in the earlier writ petition. The petitioners have not disclosed this fact in the writ petition.

9. We, therefore, call upon the petitioners to show cause as to why action including imposition of heavy cost be not taken against them for not having disclosed the dismissal of an earlier writ petition filed by Ran Vijay Singh the brother of petitioner no. 4 as noted hereinabove.

10. Ordinarily, in such circumstances we could dismiss the writ petition filed under Article 226 of the Constitution of India, but, the reason we do not do so is that in doing so we would be sustaining and perpetuating an apparently illegal action of the administrative authorities which would be evident from our discussion made hereinafter.

11. Of course, we are faced with a piquant situation where a similar writ petition challenging the order/ letter dated 07.12.2024 had already been dismissed by a co-ordinate Bench as noticed hereinabove, but, this aspect will also be considered, as, having heard the learned counsel for the parties, we are of the considered opinion that dismissal of the writ petition following the judgment of the co-ordinate Bench dated 10.12.2024 will result in grave miscarriage of justice and as already stated will amount to legitimizing an apparently illegal action of the administrative authorities, especially as, in the affidavit filed by the District Magistrate in response to our earlier order he has very fairly admitted that the petitioners were dispossessed on 17.11.2024 only in pursuance to the letter/order of the then Secretary (Home), Government of U.P., Lucknow dated 07.10.2024 in furtherance to which the District Magistrate, Pratapgarh issued a letter dated 08.10.2024 constituting a team of Revenue and Police Officials which visited the spot and provided the possession of the land in dispute to the appellants of civil Appeal No. 73 of 1989 which was decided on 03.04.2024. This was done on 17.11.2024. Thus, he has accepted that merely on administrative orders of an official of the Government, persons who claim to have been in possession since 2006 or 2010, as the case may be, were dispossessed during pendency of a Second Appeal arising out of judgment dated 03.04.2024 passed in Civil Appeal bearing No. 131 of 2024

before this High Court at Lucknow. In para 10 of his affidavit it has been stated that after coming to know about the order dated 01.05.2025 passed by this Court the authorities have realized their mistake and considering the aforesaid inadvertent and mistaken action taken by the authorities, the District Magistrate, Pratapgarh immediately has passed an order on 03.05.2025 by which direction has been issued to the Sub-Divisional Magistrate/ Circle Officer, Sadar, District Pratapgarh to restore the position on the spot as it existed prior to 17.11.2024 when the impugned action was taken by the authorities. SCA -2 is the copy of the said order. In para 11 it has been stated that on 03.05.2025 a team of Revenue and Police Officials visited the spot on 05.05.2025 and have restored the possession of the petitioners over the land in dispute. Spot memo dated 05.05.2025 has also been annexed. Apology has been tendered. Nevertheless, this writ petition is still required to be decided.

12. On the same lines, the then Secretary (Home) Dr. Sanjeev Gupta has also filed his affidavit. In para 6 of which he has admitted that one Rajendra Kumar Singh has moved a representation dated 07.10.2024 before him (Dr. Sanjeev Gupta) stated therein that his mother, an 80 years old lady, is residing alone in his house while he is staying with his family at Jaipur where he is posted in the Ministry of Railways. In the complaint

Mr. Singh stated that the residents of his village, namely, Ran Vijay Singh, Gyan Bahadur Singh and Digvijay Singh are threatening his mother and illegally interfering in her peaceful use and occupation of the land property. A request was made to restrain from interfering in the possession of his mother. The letter also mentioned an order of learned Additional District Judge in favour of the applicant and his mother. Dr. Sanjeev Gupta has then stated in para 8 that a bonafide action was taken in pursuance to aforesaid representation dated 07.10.2024 in order to secure the security and safety of a helpless senior citizen lady and the letter dated 07.10.2024 was issued. Thus, he admits the issuance of the letter dated 07.10.2024, however, he says that action was taken in good faith. Now, in pursuance to this letter/order of the then Secretary (Home) Dr. Sanjeev Gupta the petitioners were dispossessed as has already been noted hereinabove, a fact which is admitted to the District Magistrate, Pratapgarh. This entire exercise was done without there being any order of any Court for dispossession.

13. In this context, we may mention that the land in dispute bears Gata No. 456, 454, 452, 477, 1009 and 1110 situated in Village- Gambhira, Post- Katra Gulab Singh, Than- Jethwara, Tehsil - Sadar, District- Pratapgarh.

14. Applicant Shri Anuj Pratap Singh, who is seeking impleadment, had appeared at the time of hearing of the writ petition on 06.05.2025 and had clearly stated before us that he and his family members were illegally dispossessed by the petitioners in the year 2008 and therefore, after the first appellate order referred hereinabove which was passed on 03.04.2024, an application was submitted by his brother Shri Rajendra Bahadur Singh to the State Government whereupon a letter dated 07.10.2024 was issued by the State Government to the District Magistrate, Pratapgarh. It is this letter/ order which we have referred in the above quoted order dated 01.05.2025, a copy of which has been annexed with affidavit filed by the aforesaid Officers. It is only in pursuance to the said order that revenue and police team was constituted by the District Magistrate and on 17.11.2024 possession of the land, which is the subject matter of the Will, was handed over to Anuj Pratap Singh and his brother Rajendra Bahadur and his mother. Shri Anuj Pratap Singh stated that he and his brother Rajendra Bahadur and mother are recorded in respect of the land in question, though, the learned counsel for the petitioners stated that subsequently, an order of mutation has been passed in their favour. Thus, the statement of Shri Anuj Pratap Singh made before us corroborates the fact that petitioners were in possession till they were dispossessed on 17.11.2024 in a manner not permissible in law.

15. At this stage, we may point out that the land in question was allegedly owned by one Dan Pal Singh who had three sons, namely, Ram Lalan Singh, Ram Lakhan Singh and Bachole Singh. Ram Lalan Singh claimed a will executed by Dan Pal Singh in his favour. After the death of Dan Pal a dispute arose and his other son Ram Lakhan Singh filed a suit bearing No. 35 of 1985 in the Civil Court at Pratapgarh wherein the other brothers were made defendants. In this suit a challenge was raised to the Will deed dated 24.03.1983 allegedly executed by Dan Pal Singh in favour of his son Ram Lalan Singh. During pendency of the suit Ram Lalan Singh died and his wife Savitri Devi was substituted in his place. The Suit was decreed in favour of the plaintiffs and the will deed dated 24.03.1983 allegedly executed by Dan Pal Singh in favour of Ram Lalan Singh was cancelled. This led to the filing of an appeal by Savitri Devi and other heirs of Ram Lalan Singh who were beneficiaries of the will. The Appeal No. 73 of 1989 was allowed on 03.04.2004.

16. It is pertinent to mention that in the aforesaid suit/ appellate proceedings possession was not an issue and no relief had been sought nor was it granted regarding possession of the land in question. It is only the validity of the will and rights and interest in the land in question claimed through the will which were under challenge.

17. It is said that Savitri Devi sold the land to her daughter petitioner no. 1 herein Smt. Raj Lakshmi, who in turn sold it in 2007 in favour of petitioners no. 2 and 3 who claim to be in possession of part of the land even since then. Other part of the land was sold by Savitri Devi in favour of the Smt. Kamla Singh mother of petitioner no. 4- Digvijay Singh and Ran Vijay Singh who is not a party herein but was the petitioner in the earlier writ petition. This was done in 2010. The petitioner no. 2 and 3 claim to be in possession of the land in dispute to the extent purchased by them since 2007, whereas, the petitioner no. 4 claims to be in possession since 2010. Now, against the judgment and decree of the first appellate Court dated 03.04.2004 a Second Appeal has been filed by Smt. Raj Lakshmi petitioner no. 1 and others bearing Second Appeal No. 131 of 2024 which is pending in which there is no interim order.

18. It is not out of place to mention that petitioners no. 2 and 3 had been impleaded at the first appellate stage in the appeal but the petitioner no. 4 and his brother were not impleaded. It is said that the petitioner 4 and his brother have filed application for impleadment.

19. Be that as it may, the fact of the matter is that in the proceedings arising out of Suit No. 35 of 1985 it is validity of the will which was under challenge and the question of possession or

dispossession was not directly involved nor was there any relief prayed nor granted. Although, the rights of the parties based on the will was determined. In this context we have perused the judgment of the first appellate court.

20. It was accepted by Shri Anuj Pratap Singh the applicant seeking impleadment before us that he and his mother Smt. Usha Singh and brother Rajendra Bahadur Singh were dispossessed in 2008. It was also accepted that no proceedings for gaining possession of the land in respect of which rights were being claimed and in respect to which the first appellant court had ruled in their favour on 03.04.2004 were ever initiated by them instead they wrote a letter to the State Government as already referred whereupon a process was initiated by the administrative authorities by which the petitioners and Ran Vijay Singh were dispossessed.

21. Now, the question to be considered, as already noticed in our earlier order dated 01.05.2025, is, as to whether such a procedure for dispossession of petitioners could have been adopted and was valid in law. The law is settled that even if a person is in illegal possession or occupation of the land he has to be evicted following the procedure prescribed under the law. We may in this context refer to the judgments rendered in the case of ***Midnapur Zamindary Co. Ltd. Vs. Naresh Narayan Roy and***

Ors. reported in **AIR 1924 PC 144, Lallu Yeshwant Singh Vs. Rao Jagdish Singh and Ors.** reported in **AIR 1968 SC 620, Ram Ratan and Ors. Vs. State of U.P.** report in **(1977) 1 SCC 188, Express Newspapers (P) Ltd. and Ors. Vs. Union of India and Ors.** reported in **(1986) 1 SCC 133, Krishna Ram Mahale Vs. Mrs. Shobha Venkat Rao** reported in **(1989) 4 SCC 131, Bishan Das Vs. State of Punjab** reported in **AIR 1961 SC 1570** and **Meghmala and Ors. Vs. G. Narasimha Reddy and Ors.** reported in **(2010) 8 SCC 383.**

22. In this context we may refer to the observations of Hon'ble the Supreme Court made in the case of **Bishan Das** (supra) which were as under:-

"We must, therefore, repel the argument based on the contention that the petitioners were trespassers and could be removed by an executive order. The argument is not only specious but highly dangerous by reason of its implications and impact on law and order..."

Before we part with this case, we feel it our duty to say that the executive action taken in this case by the State and its officers is destructive of the basic principle of the rule of law."

23. The State Authorities could not step in and dispossess the petitioners nor could they have handed over the possession of the

land in question to the applicant seeking impleadment and those claiming similarly as him, by administrative action, with the help of police force. In our humble opinion the only course open to Shri Anuj Pratap Singh, his mother and his brother was to initiate proceedings for eviction or taking possession as per law. If the land in question is agricultural land, then, the proceedings envisaged under Section 134 for ejectment of persons occupying land without title would have been initiated by Shri Anuj Pratap Singh and others, but, there is no way that on a representation submitted to the State Government the State Authorities could have swung into action and dispossessed the petitioners. The legal position in our opinion is very well settled in this regard. In fact, the petitioners have annexed a Division Bench Judgment of this Court rendered in ***Writ - C No. 20102 of 2022; Vijay Vs. State of U.P. and Ors.*** on 11.08.2022, wherein, such practice has been deprecated.

24. We have also been informed that various Government Orders have been issued by the State Government asking the Revenue and the Police Authorities to restrain themselves from interfering in a dispute which is pending in the Court or if not pending it involves question of title or possession i.e. it is a civil dispute pertaining to land or property. But, in this case for reasons best known to the opposite parties an exception was

made and a course was adopted which was not permissible in law. It is in these circumstances that this writ petition has been filed seeking the relief as already referred above.

25. In fact, Shri M.A. Khan, learned Senior Counsel appearing for the applicant Shri Anuj Pratap Singh very fairly submitted during course of hearing that liberty be granted to his client to seek remedies prescribed in law, such as, under Section 134 of the U.P. Revenue Code, 2006.

26. The Officials who have appeared before us on 06.05.2025 also accepted their folly, as, by an administrative order the possession was disturbed.

27. Now, as stated, a piquant situation has arisen where a similar writ petition bearing Writ- C No. 10291 of 2024 filed by the brother of petitioner no. 4 has been dismissed by this Court on 10.12.2024, an order which has already quoted. With utmost respect the action under challenge in the said writ petition was that of the State Authorities in interfering in a civil dispute and taking action for dispossession, especially the letter/order dated 07.10.2024, therefore, it is the validity of the said letter/order dated 07.10.2024 and consequential action, which was under challenge in the earlier writ petition. We are unable to subscribe to the view expressed by the Co-ordinate Bench in the said writ

petition for the reason validity of the letter of Secretary (Home), Government of U.P., Lucknow dated 07.10.2024 would not be adjudicated in the pending Second Appeal. The pendency of the Second Appeal was not an impediment in adjudicating the validity of the action of the administrative authorities without deciding the rights of the parties whether based on the will or the right to possession. The only question before the writ Court was as to whether State Authorities could interfere and dispossess somebody by force without the aggrieved persons having taken recourse to law, such as, the proceedings under Section 134 of the U.P. Revenue Code, 2006. We have already referred to various precedents on the subject in the earlier part of the judgment, according to which it was impermissible for the administrative authorities to do so. We are further of the humble opinion that in the Section Appeal question of possession was not directly involved *per se*, therefore, the writ petition could not have been dismissed on the ground that the petitioner having sought impleadment in the said second appeal should seek relief therein. We are, therefore, unable to subscribe to the opinion rendered by a Co-ordinate Bench in a similar writ petition bearing Writ - C No. 10291 of 2024.

28. In view of the above, we are not persuaded to dismiss this writ petition on the ground of dismissal of Writ - C No. 10291 of

2024.

29. We were also informed that when the matter was taken cognizance of by the Police Authorities in pursuance to the letter/order dated 07.10.2024 one of the petitioners gave in writing to the S.H.O., Police Station- Jaithwara, District- Pratapgarh that if he was not able to get a stay order in the second appeal, then, he will hand over the possession. Great emphasis was laid on this by the applicant seeking impleadment as also the learned Standing Counsel at least initially during the course of hearing, however, we are of the opinion that interference by the Revenue and Police Authorities in such a matter itself was unwarranted and without jurisdiction, therefore, although, the petitioner's counsel denies any such application having been given with a free will, even if it was given, it can not have any legal significance, as, the entire exercise in our opinion is *de-hors* the law. Any such document given before the police would not have any value in law. These are not issues to be considered or decided before the Revenue or Police Authorities in the manner in which it has been done.

30. In view of the discussion already made, as the applicant Anuj Pratap Singh seeks rights and interest in respect of the land in question, therefore, his application for impleadment is allowed. The petitioners are further directed to implead Ms. Usha the mother of Shri Anuj Pratap Singh and his brother Rajendra

Bahadur Singh as opposite parties in this writ petition by moving appropriate application before the next date of listing.

31. We make it clear that we are not at all concerned with the rights and title claimed by the respective parties to the land in question whether based on the will or otherwise nor with the right claimed by them to possession. We are only concerned with the action of an Officer of the State Government in issuing the letter dated 07.10.2024 and the consequential action taken by the State Authorities in taking possession from the petitioners and handing it over to other private opposite parties, as already discussed.

32. Our order will also not come in the way in disposal of the Second Appeal No. 131 of 2024 or considering any application filed therein nor will it come in the way of applicant Anuj Pratap Singh, his mother Smt. Usha Singh and his brother Rajender Bahadur Singh in initiating proceedings for ejectment under Section 134 of the U.P. Revenue Code, 2006 or seeking such other remedies for possession of land in question if otherwise permissible in law.

33. In these circumstances, for the reason already stated, considering the important questions involved and as we are not in agreement with the judgment dated 10.12.2024 rendered by a Co-ordinate Bench in a similar writ petition bearing Writ - C No.

10291 of 2024, therefore, we are of the opinion that the questions referred hereinafter require consideration by a Bench of such strength as may be constituted by Hon'ble the Chief Justice in terms of Chapter V Rule 6 of the Allahabad High Court Rules, 1952. We, therefore, refer the following questions for consideration by such Bench as may be constituted by Hon'ble the Chief Justice:-

"(1) Whether the Co-ordinate Bench has correctly decided ***Writ - C No. 10291 of 2024; Ran Vijay Singh Vs. State of U.P. and Ors.*** vide its judgment dated 10.12.2024 considering the fact that the challenge in the said writ petition was to an administrative letter/order the Secretary (Home), Government of U.P., Lucknow dated 07.10.2024 and the consequential action taken in pursuance to it, by which the petitioner of the said writ petition was dispossessed from land in his possession by administrative authorities without following the due process of law, especially as, validity of such an administrative letter and action consequential thereto, could not be adjudicated in Second Appeal No. 131 of 2024 pending before this High Court at Lucknow, and also as, question of possession was not directly involved in the said proceedings and in fact no such direction was issued by the first appellate Court in its judgment and decree dated 03.04.2024 for

dispossession of the petitioners and even if it had been issued, the law prescribes a process for execution of the same under the Code of Civil Procedure 1908 ?

(2) Whether the letter/order of the Secretary (Home), Government of U.P., Lucknow dated 07.10.2024 was permissible in law when there was a dispute between the parties as to title and validity of a will deed was subjudice before the Court ?

(3) Could the Secretary (Home), Government of U.P., Lucknow vide his letter/order dated 07.10.2024 and could the district administration, Pratapgarh, in compliance thereof, take possession of the land in question from those in possession i.e. the petitioners and hand it over to the respondents, instead of asking the aggrieved persons to pursue legal remedies in a Court of competent jurisdiction as prescribed in law ?

(4) Whether the letter/order of the Secretary (Home), Government of U.P., Lucknow dated 07.10.2024 and action taken in pursuance thereof does not circumvent the procedure prescribed in law for obtaining possession through statutory remedies which may be prescribed, such as, a suit for possession or ejectment under Section 134 of the U.P. Revenue Code, 2006 or such other remedies as may be prescribed under the relevant statute

and whether the letter/order dated 07.10.2024 and action taken as a consequence thereof is not destructive of the basic principle of rule of law ?"

34. Let the records be placed before Hon'ble the Chief Justice for requisite orders.

35. The records of Writ - C No. 10291 of 2024 decided on 10.12.2024 shall be tagged with this writ petition.

(Om Prakash Shukla,J.) (Rajan Roy,J.)

Order Date :- 26.06.2025

R.K.P.