

Neutral Citation No. - 2024:AHC-LKO:50964

**Court No. - 8**

**Case :-** WRIT - C No. - 6218 of 2024

**Petitioner :-** Pradeep Kumar Mishra

**Respondent :-** State Of U.P. Thru. Prin. Secy. Revenue Deptt., Lucknow  
And Others

**Counsel for Petitioner :-** Alok Kumar Tripathi

**Counsel for Respondent :-** C.S.C.,Rajnish Ojha

**Hon'ble Jaspreet Singh, J.**

1. Heard learned counsel for the petitioner, learned Standing Counsel for the State respondents and Shri Rajnish Ojha for the private respondent.
2. The petitioner has approached this Court seeking quashing of the order dated 04.07.2024 passed by the Sub Divisional Magistrate, Lalganj, District Pratapgarh whereby an interim order has been passed in a case which was dismissed in default and despite an application for restoration being available on record without issuing notice and without allowing the restoration application, the interim order has been granted.
3. It has been submitted that the proceedings under Section 176 of the U.P. Z.A. & L.R. Act, 1950 was initiated which was engaging the attention of the respondent no.2. The said suit came to be dismissed on 21.02.2011 and it is alleged that on the same date the private respondent filed an application for recall. It has been stated in the petition that the recall application came to be allowed on 29.03.2011 and thereafter the matter was listed for several dates but the suit was not decided.
4. It is also pointed out that once again the suit came to be dismissed on 11.11.2021 and it has been further submitted that though the suit was dismissed, the respondent no.3 executed a sale deed on 20.12.2021 and in this manner the land in question was being transferred by the respondent

no.3 without any right and the fact remains that the order impugned dated 04.07.2024 has been passed by the authority behind the back of the petitioner in a suit which stood dismissed and that too without recalling the dismissal order hence, the order is bad in the eyes of law.

5. This Court by means of order dated 25.07.2024 had passed the following order which reads as under:-

*"Heard learned counsel for the petitioner and learned Standing counsel for the State respondent and also perused the original record placed before this Court*

*There are certain major discrepancies in the record and considering the nature and seriousness, this Court calls upon the S.D.M Lalganj, Pratapgarh to appear before the Court tomorrow i.e. 26.07.2024 at 2.15 p.m to explain under what circumstances the proceedings were taken forward in the manner it reflects from the record.*

*A specific query has been placed before the learned Standing counsel which would be addressed by the S.D.M that once the proceedings were dismissed on 21.11.2021, and as sought to be explained by the learned Standing counsel and the counsel for the private respondent, how the proceedings remained undated for more than 2 years as if that the application for restoration was moved on the very same day i.e. 11.11.2021, then how the file remained without any date from 11.11.2021 till 06.05.2024.*

*It shall also be clearly explained that under what circumstances, the said application was entertained without giving it a separate number and who has written on the order sheet noticing the death of a party as it indicates that one of the parties had died who had conveyed the information, how the same was acquired and once it was written on the order sheet, then whether any notices were issued to the heirs of the dead person. Under what circumstances the interim order was passed without noticing this fact including the order dated 27.06.2024 which being on the order sheet in handwriting which implies that it must have been written by the Presiding Officer.*

*The record has been retained by this Court and shall be kept in a sealed cover to be placed before the Court at the time when the case is taken up."*

6. In furtherance of the said order Shri Shailendra Kumar Verma the present Sub Divisional Magistrate, Lalganj, District Pratapgarh is present in

person and he has stated that he had joined the court and taken charge only on 09.07.2024. It has further been submitted by him that the issue which is engaging the attention of the court relates to the period prior to his joining.

7. Shri Pravin Kumar Dwivedi is also present in Court and he has stated that he was holding the court of Sub Divisional Magistrate, Lalganj, District Pratapgarh from 02.03.2024 to 08.07.2024.

8. In light of the order passed by the Court on 25.07.2024, it has been informed by Shri Dwivedi that the proceedings for the suit preferred under Section 176 of the U.P. Z. A. & L. R. Act, 1950 (Rupa Singh Vs. Pushpa Devi and others) was dismissed for want of prosecution on 11.11.2021 and by the very same order the file was directed to be consigned to record.

9. Shri Rajnish Ojha, learned counsel, who appeared for the private respondents, was put with a pinpointed query as to what was the date of moving an application seeking recall of the order dated 11.11.2021 by which the proceedings had been dismissed in default, to which he stated that the application was made on the very same day i.e. 11.11.2021.

10. This is contradicted by Shri Dwivedi the officer present before the Court today, who has stated that the said application was filed on 21.07.2022.

11. Be that as it may, both the statements appear to be unreliable as none of the statements can be corroborated logically from the record. The record indicates a different picture all together which affects the sanctity of judicial functioning and the manner in which the proceedings have been held raises several issues and it has caused anguish to this Court.

12. Having examined the record, it appears that an application had been moved by Mrs. Rupa Singh and if the statement of the counsel for the

private respondent no.6 is taken into account, then that application came to be filed on 11.11.2021. What is more important and noticable is that on the said application there is an order which has been signed by the then Presiding Officer and as stated by Shri Dwivedi that order was to keep the said application on the file and it is dated 21.07.2022.

13. What is noticeable is the fact that in case if the application was made on 11.11.2021 then where was the occasion to pass the order of keeping the application on file on 21.07.2022 and moreover if that was done then what was the cause that this order was passed after about eight months i.e. from 11.11.2021 and that too without there being any date fixed coupled with the fact that for this entire period i.e. 11.11.2021 till 21.07.2022. Mrs. Rupa Singh did not come forward to press the application and there is no explanation regarding movement of the file either in court or from and to the record room to the court.

14. It has also not been indicated nor could be explained by the officers present in Court that for these eight months where was this application lying and gathering dust.

15. The record further indicates that in case if such application was taken note of by the court concerned on 21.07.2022 then something which is glaring is the fact that the application for recall had been moved after eight months and naturally the said application could not have been taken note of without being accompanied with an application under Section 5 of the Limitation Act 1963. Moreover, in absence of such application nor any affidavit filed by the private respondent in support of her restoration application it could not be proceeded and hence, this statement also appears to be doubtful.

16. This issue noticed above also invokes a larger issue regarding maintenance of judicial records by the revenue Authorities who hold courts and are entrusted with duty to keep and maintain judicial records in a manner which inspires confidence and not that it is left open for being misused or to compromise the integrity and sanctity of the proceedings. The manner in which the order sheets have been drawn also reveals an ugly truth pointing towards the unfairness of proceedings being carried out in exercise of judicial functioning. This issue has been noticed by this Court in the case of *Avadhesh Kumar and others Vs. District Magistrate, Lko and others*; 2022 SCC Online All 636 and *Mohammad Altaf Mansoor @ Chaudhary Mohammad Altaf Vs. Sub Divisional Magistrate Barabanki and 8 others*, Neutral Citation No.2024: AHC-LKO: 10233 as well as *Rashish Kumar Vs. the Addl. Commissioner Judicial IInd, Lucknow Division, Lko and 9 others decided on 03.12.2024* and despite the malaise being brought to the notice of the State Authorities, there appears to be no improvement and this matter yet again is before the Court.

17. The record further indicates that there has been no order on the order sheet regarding taking the said application for recall on record or fixing any date thereon as shall be evident from the extracts of the order sheets which have been scanned from the original record and is being reproduced hereinafter for ease of reference and are self explanatory indicating the manner in which the judicial proceedings have been done and it would reveal that the order sheets have not been signed by the Presiding Officer through except on few solitary dates.



આદેશ મુજબ

[illegible]

6/5/20

॥ अमरिच आचार्य के अर्थ में कहा है ॥  
 यदि आचार्य के अर्थ में ॥ १॥ १॥ १॥ १॥ १॥

11/11/2021

पत्रावली पेश हुई। पुकार जवाब गई। उपायान्त में उल्लेखित अनुपस्थित है। उपायान्त के साथ एक पैन्नी के अन्त में राजदायश प्राप्ति—एव निरस्त किया जाता है। एव आवश्यक कार्यवाही पत्रावली, राजस्व अभिलेखाधार में भीष्ट हो।

उपाजिजाविकारी  
वाङ्मय प्रदायक

महोदय प्रभुतादी लेख्य २ ओं प्राप्त हो गयी हैं  
 लिखनी सूचना आदीकरण प्रकाशनीक  
 नहीं दे गयी है।

6/5/24

7-24, 6-24, 24

13/6/99

600 131610

[illegible]

27 | 24

पराग सहस्रत, पुष्पा मारी गई, बाकी उपस्थित,  
सहिवारी अनुपस्थित। वज्रदायक पर नोटिस-  
(शेष फरका) हेतु पत्र दि. 8/7/24 को  
86/24 है -  
- कलिय



21/11/2018

आदेश पत्रक



आदेश पत्रक

न्यायालय : उपजिलाधिकारी  
मण्डल : इलाहाबाद, जनपद : प्रतापगढ़, तहसील : लालगंज  
वाद संख्या :- RST/344/2009 20 0  
कंप्यूटरीकृत वाद संख्या :- T20110757/200027  
रूपा सिंह बनाम पुष्पा देवी आदि  
अंतर्गत धारा :- 176, अधिनियम :- 30 प्रो जे वि० भू० व्य० अधिनियम, 1950

11/7/24

पक्षां प्रस्तुत। पक्षां पूर्ण में दि०  
8/7/24 को सुनवाई हेतु नियत  
थी। किंतु वाजदाय (कर्ता) का  
सार्चना पर न. था - 15। जल दी.  
दि० 29/6/24 प्रस्तुत किया गया।  
अपेक्षित के कारणों में आज  
दि० 11/7/24 को पक्षां पर  
सुनवाई की जा रही है।  
पुकार हुई। अभयपक्ष उपस्थित।  
अभयपक्षों को अपेक्षित सार्चना पर  
पर सुना गया। पक्षां वास्ते  
भापति (विरुद्ध हा० पक्ष 29/6/24) दि०  
8/7/24 को प्रस्तुत हो। अपेक्षित हा०  
पक्ष का मुसन्ना हाफ नया जाय।  
500(L)

आदेश पत्रक

न्यायालय : उपजिलाधिकारी  
मण्डल : प्रयागराज, जनपद : प्रतापगढ़, तहसील : लालगंज  
वाद संख्या : RST/344/2009-2010  
कंप्यूटरीकृत वाद संख्या : T201102570200027  
रूपा सिंह बनाम पुष्पा देवी आदि  
अंतर्गत धारा:- 176, अधिनियम :- 30 प्र० ज० वि० भू० व्य० अधिनियम, 1950

4/7/24

पता० दस्तुत | पता० पूर्व में दि० 8/7/24  
को सुनवाई हेतु नियत थी | किन्तु  
वाजदायकार्त्ता द्वारा पता० पता० म० धारा  
151 जा० वी० दि० 4/7/24 दस्तुत  
किया गया | उपरोक्त के आलेख में  
आज दि० 4/7/24 को पता० पर सुनवाई  
की जा रही |

वाजदायकार्त्ता द्वारा कथन किया गया  
कि उपरोक्त वादग्रस्त भूमि की  
स्थिति में परिवर्तन किया जा रहा,  
प्रकाश निर्माण किया जा रहा | साक्ष्य  
स्वरूप प्र० मौके की फोटोग्राफ्स संग्रह  
की गई हैं | साथ ही उपनिबंधक  
लालगंज द्वारा प्रेषित आवेदन भी संग्रह  
की गई | वाजदायकार्त्ता द्वारा अस्थाई

पुनः संख्या -



आदेश पत्रक

न्यायालय : उपजिलाधिकारी  
मण्डल : प्रयागराज, जनपद : प्रतापगढ़, तहसील : लालगंज  
वाद संख्या : RST/344/2009-2010  
कंप्यूटरीकृत वाद संख्या : T201102570200027  
रूपा सिंह बनाम पुष्पा देवी आदि  
अंतर्गत धारा:- 176, अधिनियम : 30 प्र० ज० नि० भू० व्य० अधिनियम, 1950

स्वयं की सांग की गई है  
अन्यथा उसे अपूर्णनीय क्षति होगी।  
अतः - यापक्षित से सा० पक्ष वास्ते  
अस्वास्थ्य स्थान द्वारा - 15। जा० की  
स्वीकार किया जाता है एवं उभयपक्षों  
को निर्देशित किया जाता है कि  
वादभस्त भूमि पर अग्निम तिथि  
दि० 8/7/24 तक यथास्थिति बनाए  
रखें। वाजदायताकर्ता अपने सा० पक्ष,  
साक्ष्य आदि से शेष पक्षकारों  
को 24 घंटे में सूचित कर - याया०  
को अवगत कराएंगे।

SDO(L)

पक्ष संख्या :

18. From the perusal of the application and the order sheets scanned it would reveal that the order sheet does not reflect any fixing of date post 11.11.2021 and rather there is a recording of some endorsement in the midst of the order sheet dated 06.05.2024 indicating that some party had expired.

19. What is surprising to note that without there being any date fixed in the matter, how this file came to be in the hands of any party in terms whereof this endorsement could have been made on the order sheet. *Prima facie*, it gives rise to a serious doubt regarding tampering of order sheets which is an integral part of judicial record.

20. The record further indicates that post 11.11.2021, the only order that appears on the order sheet is 30.05.2024 wherein some date has been fixed for 13.06.2024 and needless to say that order too has not been signed by any authority including the Presiding Officer. Thereafter there is a date of 13.06.2024 which indicates that the Presiding Officer is on leave and the matter has been directed to be placed on 27.06.2024. On 27.06.2024, a hand written order of the Presiding Officer himself, i.e. Shri Dwivedi, is on record wherein it reflects that the plaintiff is present, defendant is absent, notice be issued to the remaining opposite parties fixing 08.07.2024. Thereafter on 01.07.2024, the Presiding Officer has passed another hand written order which runs into three pages and it indicates that upon an application moved on 29.06.2024, the date has been preponed to 01.07.2024 and on 01.07.2024 it states that both the parties are present and thereafter the matter was listed on 08.07.2024.

21. Again while fixing the matter for 08.07.2024, the matter is again taken up by the Presiding Officer on 04.07.2024, again the said order is in the hand writing of Shri Dwivedi and an interim order directing the parties

to maintain status quo has been passed and the matter was thereafter fixed for 08.07.2024. What is so significant about 08.07.2024 is the fact that the said Presiding Officer was transferred on the very same day.

22. It is in these circumstances where the petitioner has come up before the Court assailing these orders on the ground that they are against the judicial norms where principles of natural justice have been thrown to the wind and behind the back of the parties and even without restoring the matter the interim order has been passed and in this context the Court had called for the record.

23. Having tentatively examined the record on 25.07.2024, the Court found it necessary to call upon the officer so that their version could also be heard before passing any order which may affect not only the judicial order which are under challenge but may require some directions to be issued for administrative reasons and to maintain judicial discipline, decorum and to ensure that the rule of law prevails.

24. A specific query was put to Shri Dwivedi that during his tenure when he held the Court for Sub Divisional Magistrate from 02.03.2024 till 08.07.2024 how many cases on an average were listed before him to which he stated that there were roughly 85 to 100 cases listed on daily basis. A specific query was thereafter put to him that in how many cases he has passed orders in his hand written, to which he says that it is only the final orders which are typed, rest orders on daily basis are in hand writing. Further it was inquired as to whether in all the orders in the files listed on a day, except final orders, routine orders are written and signed by him to which he could not give any reply as the order sheets are not in his hand writing nor all orders sheets were signed by the Presiding Officer. He was

then asked as to in how many cases he passed orders exceeding two pages in his own hand writing to which he says that this perhaps was the only one or may be in another case or two.

25. A specific query was also put to him that in how many cases which were listed before him on daily basis for the period while he was holding the court wherein he had granted interim orders to which he says that they were very few. However, he adds that the facts of this case were such that there was an emergent situation, as certain photographs were placed by the parties which persuaded him to pass the order. He was then put as to how he could pass the order once, as per his own statement, the application for restoration was moved on 21.07.2022 and not accompanied by an application seeking condonation of delay and that too, without restoring the matter and condoning the delay. He had no answer to the aforesaid query.

26. Once the alleged application for recall had been moved without an application under Section 5 of the Limitation Act then how the court could proceed further without ensuring that the service of the notices were complete on the contesting parties. The officer also could not explain that how in the midst of the order sheet there was an endorsement dated 06.05.2024 that one of the party has died and what measure was taken by him to ascertain which party had expired and whether without calling for an application for substitution to bring on record the legal representative of the deceased party then how he could take the proceedings forward.

27. There is nothing on record to indicate that once the said fact position was evident from the order sheet itself then how such dates were fixed and what was that material before the Court concerned to have formed a subjective satisfaction that the parties to the suit were served. He also could

not explain the fact that once he had passed the order on 27.06.2024 fixing 08.07.2024 and directing the applicant/plaintiff to take steps. Then without ascertaining that the steps were taken by the party concerned and without there being any endorsement to the aforesaid fact that steps were taken and served yet the matter was proceeded with by the Presiding Officer against his own orders.

28. Needless to say even the counsel for the private respondent could not explain how the proceedings were taken forward and if he had moved the application for recall in November, 2021 then till July 2022 why he did not press his application which remained without any date. Moreover, even from 21.07.2022 till May 2024 nothing happened and no date was fixed and the plaintiff did not follow up the application and suddenly in May 2024 the plaintiff got active and all of a sudden short dates were fixed and dates were preponed. The counsel for the private respondent also could not explain that how repeated application were moved and without taking steps yet parties appeared and interim orders are passed.

29. Without delving any further since the extract of the order sheets have already been noticed above, this Court is satisfied that the orders passed by the Sub Divisional Magistrate dated 01.07.2024 and 04.07.2024 are patently without jurisdiction having been passed without following the norms and settled legal principles and they are in violation of principles of natural justice hence, are clearly not sustainable in law. The said orders are liable to be quashed and set aside. Accordingly the writ petition is allowed and the impugned orders dated 01.07.2024 and 04.07.2024 are quashed and set aside.

30. Looking into the manner in which the proceedings have been taken,

this Court finds that it is necessary that certain directions be issued so that the judicial sanctity is maintained.

31. The District Magistrate concerned shall transfer this matter to his own court and shall proceed with the matter and shall ensure that all the parties are duly served and thereafter the matter is heard and decide first on the application for recall/delay condonation and if such application is allowed then the Court shall consider the matter on merits and decide it as expeditiously as possible after affording full opportunity of being heard.

32. This Court further directs that an inquiry be set up to ascertain and investigate the facts in light of the concerns raised by the court as noted above in this judgment including the role of the private respondent no.6 (plaintiff before the revenue court) and in case if it is found that there is tampering of the judicial records, dereliction in duty, negligence in maintaining the record of files then appropriate action be taken against the erring party .

33. A copy of this order shall be placed before the Principal Secretary Revenue, who shall himself look into this aspect and hold an inquiry and submit its report to this Court on 6th September, 2024, on which date, this case shall be listed for compliance of this order.

34. A copy of this order shall be served to the Principal Secretary Revenue, State of U.P. for compliance through the Senior Registrar of this Court forthwith. The original record retained by this Court has been returned and handed over to Shri Badrish Tripathi, the Additional Chief Standing Counsel in the Court.

**Order Date :- 26<sup>th</sup> July, 2024**  
**ank/-**