



2025:AHC:171621

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 15746 of 2001

Nagar Palika And Another

.....Petitioner(s)

Versus

Gullu Shah And Others

.....Respondent(s)

Counsel for Petitioner(s) : J.J.Munir, Tanisha Jahangir Monir
Counsel for Respondent(s) : A.K. Mishra, Ayank Mishra, Mahesh
Sharma, Narayan Dutt Shukla,
Rituvendra Singh Nagvanshi, Sunil
Verma, U.K. Mishra, Vikram Nath,
Vinod Sinha

With

WRIT – B No. - 15733 of 2001

Guru Singh Sabha

.....Petitioner(s)

versus

Board of Revenue And Others

.... Respondent (s)

Counsel for Petitioner(s)
Sharma, Mr. Arvind Kumar Verma

Mr. Mahesh

Counsel for Respondent (s)
Senior Counsel, Mr. Shiv Karan, Ms.Tanisha Jahangir Monir

Mr. R.C. Singh,

Reserved on 13.08.2025

Delivered on 24.09.2025

Court No. - 37

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Ms. Tanisha Jahangir Monir, learned counsel for the petitioners, Mr. Arvind Kumar Verma, learned Counsel holding brief of Mr. Mahesh Sharma, learned counsel for respondent no.4 and Mr. R.C. Singh, learned Senior Counsel assisted by Mr. Shiv Karan,

learned counsel for respondent no.1/1 in the leading petition, i.e., Writ B No.15746 of 2001.

Heard Mr. Arvind Kumar Verma, learned Counsel holding brief of Mr. Mahesh Sharma, learned counsel for the petitioner, Mr. R.C. Singh, learned Senior Counsel assisted by Mr. Shiv Karan, learned counsel for respondent no.4/1, Ms. Tanisha Jahangir Monir, learned counsel for respondent no.2 in the connected petition, i.e., Writ B No.15733 of 2001.

2. Since the issue involved in both the writ petitions is interconnected and the result is interdependent, both the Petitions are heard together and are being disposed of by common order.

3. Brief facts of the case are that dispute relates to plot no.2651, area 2 biswa, situated in village Sarai, Pargana+Tehsil- Sayana, District Bulandshahar. Gram Sabha of village Sarai passed a proposal in a meeting held on 21.1.1975 in favour of respondent no.4-Guru Singh Sabha, Gurudwara Committee who is writ petitioner of Writ Petition No.15733 of 2001, proposing for grant of patta in respect to the plot in dispute. The aforementioned proposal was approved by the Sub Divisional Officer vide order dated 3.2.1975. One Gullu Shah who is respondent no.1 in Writ Petition No.15746/2001 and respondent no.4 in Writ Petition No.15733/2001 filed a case under Section 198(4) of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (hereinafter referred to as the "U.P. Z.A. & L.R. Act") for cancellation of patta dated 3.2.1975 as well as proposal dated 21.1.1975. The Additional Collector vide order dated 18.10.1977 cancelled the aforementioned patta executed in favour of Guru Singh Sabha, Gurudwara Committee. Against the order dated 18.10.1977, respondent no.4/Guru Singh Sabha, Gurudwara Committee (writ petitioner of Writ Petition No.15733/2001) filed a revision before the Commissioner at Meerut. The aforementioned revision was heard by the Additional Commissioner who vide order dated 29.11.1978 made a reference to the Board of Revenue for setting aside the order dated 18.10.1977 passed by the Additional Collector. The aforementioned reference was heard by the Board of Revenue and the Board of Revenue vide order dated 20.7.1981 accepted the reference and remanded the matter to the court of Additional Collector to decide the proceeding afresh on merit. In pursuance of the order of Board of Revenue, the Additional Collector heard the matter and vide order dated 21.5.1994 issued notice to the Nagar Palika Parishad, Sayana as well as other parties. The Nagar Palika Parishad has filed its

written statement, stating that the plot in dispute belongs to Nagar Palika, as such, the lease cannot be executed in favour of respondent no.4/Guru Singh Sabha, Gurudwara Committee by the Land Management Committee. The Additional Collector vide order dated 10.12.1996 allowed the application filed by respondent no.1/Gullu Shah, cancelling the lease executed in favour of respondent no.4/Guru Singh Sabha, Gurudwara Committee in the court of Commissioner. The Additional Commissioner vide order dated 1.2.1999 set aside the order dated 10.12.1996 passed by the Additional Collector. Against the order passed by the Additional Commissioner dated 1.2.1999, Nagar Palika Parishad and respondent no.1/Gullu Shah filed their separate revisions before the Board of Revenue which were registered as Revision Nos. 25 & 24, both of 1998-99. Both the aforementioned revisions were clubbed and heard together by the Board of Revenue and vide order dated 19.1.2001, allowed the revision filed by Gullu Shah and set aside the order dated 12.1999 passed by the Additional Commissioner and maintained the order dated 10.12.1996 passed by the Additional Collector. The revision filed by Nagar Palika Parishad was also accordingly disposed of. Hence, Writ Petition No.15746 of 2001 has been filed by Nagar Palika for the following relief:-

"i. a writ, order or direction in the nature of certiorari, quashing the impugned judgment dated 19.1.2001 passed by the Board of Revenue, U.P. at Allahabad in Revision No. 25 of 1998-99, Nagar Palika Vs. Guru Singh Sabha & Others in Revision No. 24 of 1998-99, Gullu Shah Vs. Guru Singh Sabha & Others (Annexure-3 to writ petition) and the order dated 10.12.1999 passed by the Addl. Collector (Admn.), Bulandshahr in Case No. 69 of 1996, Gullu Shah Vs. Babulal (Annexure-I to writ petition) to the extent that such judgments hold the plot in dispute to be property of respondent No. 1"

Writ Petition No.15733 of 2001 has been filed by Guru Singh Sabha, Gurudwara Committee for the following relief:-

"i. to issue a writ, order or direction in the nature of Certiorari quashing the order dated 19.1.2001 passed by the Learned Board of Revenue, U.P. at Allahabad.

ii. to issue a writ, order or direction in the nature of

mandamus commanding the respondents not to give effect to the impugned order dated 19.1.2001 passed by the Learned Board of Revenue, U.P. at Allahabad."

4. Writ petition No.15733 of 2001 was entertained on 26.4.2001 and the parties were directed to maintain status quo with respect to possession as well as both the parties were restrained from making any new construction over the land in dispute. This Court entertained the Writ Petition No.17546/2001 on 26.4.2001 and connected the same with Writ Petition No.15733/2001.

5. In pursuance of the aforementioned interim orders of this Court, parties have exchanged their pleadings.

6. Learned counsel for the petitioner in Writ Petition No.15746 of 2001 submitted that the proceeding under Section 198(4) of the U.P. Z.A. & L.R. Act has been decided in illegal and arbitrary manner, without considering the fact that plot in question belongs to Nagar Palika which is a public body and the land management committee has no right to execute the lease in favour of anyone. She further submitted that the authorities have not recorded finding as regard title and possession of the respective parties over the plot in dispute, as such, the impugned orders cannot be sustained in the eye of law. She submitted that the sanctioned map is no evidence of title in absence of lawful acquisition of title in respect to the plot in question. She also submitted that land is otherwise found to be road-side land within the municipal limit of Nagar Palika Parishad, would vest in Nagar Palika unless the same was transferred or allotted in proper manner to particular individual. She submitted that proprietary interest of Nagar Palika which is a public body, has been prejudiced under the impugned order, as such, the impugned order should be set aside.

7. Learned counsel for the petitioner appearing in the connected Writ Petition No.15733 of 2001 submitted that plot in dispute was in possession of Guru Singh Sabha, Gurudwara Committee since the year 1975 when the plot was allotted to him. He further submitted that the Land Management Committee was fully entitled to allot the plot in dispute in favour of Guru Singh Sabha, Gurudwara Committee and respondent no.4/Gullu Shah has no locus to challenge the allotment by way of proceeding under Section 198(4) of the U.P. Z.A. & L.R. Act. He submitted that the impugned order dated 19.1.2001 has been passed in ex parte manner, as such, the same should be set aside.

He submitted that the land in dispute do not fall in the territorial limit of town area/Nagar Palika Parishad, Sayana. He submitted that notification extending limit of Nagar Palika Parishad came into existence in the year 1979 whereas the land in dispute was allotted in favour of Guru Singh Sabha, Gurudwara Committee in the year 1975 when the Gaon Sabha/Land Management Committee was in existence. He submitted that there was proper resolution for allotment in favour of Guru Singh Sabha, Gurudwara Committee, as such, the allotment cannot be cancelled by the revenue authorities. He submitted that the impugned order dated 19.1.2001 should be set aside.

8. Learned Senior Counsel appearing for respondent no.1 in Writ B No.15746 of 2001 and respondent no.4 in Writ B No.15733 of 2001 submitted that respondent no.1/Guru Shah was in possession of the plot in dispute, as such, the same cannot be allotted to respondent no.4/Guru Singh Sabha Gurudwara Committee. He submitted that Additional Collector has rightly cancelled the allotment made in favour of Guru Singh Sabha Gurudwara Committee on the ground that in the sanctioned map of Nagar Palika, plot in dispute was shown as plot of Gullu Shah. He further submitted that the Board of Revenue has rightly maintained the order of Additional Collector which require no interference by this Court. He further submitted that the basis of title of respondent no.1/Guru Shah is sale deed.

9. I have considered the argument advanced by learned counsel for the parties and perused the records.

10. There is no dispute about the fact that plot no.2651, area 2 biswa, situated in Village- Sarai, Pergana & Tehsil- Sayana, District Bulandshahar was allotted by Gaon Sabha/Land Management Committee on 21.1.1975/3.2.1975 to Guru Singh Sabha Gurudwara Committee. Gullu Shah initiated proceeding under Section 198(4) of the U.P. Z.A. & L.R. Act which was ultimately allowed by the Additional Collector on 10.12.1996, cancelling the allotment made to Guru Shah Sabha Gurudwara Committee. In revision, order of Additional Collector dated 10.12.1996 was set aside by Additional Commissioner vide order dated 1.2.1999 but the Board of Revenue vide order dated 19.1.2021 allowed the revision filed by Gullu Shah and maintained the order of Additional Collector dated 10.12.1996. There is also no dispute about the fact that revision filed by Nagar Palika Parishad was also accordingly disposed of.

11. In order to appreciate the controversy involved in the matter, the

perusal of the finding of fact recorded by the Additional Collector dated 10.12.1996 will be relevant which is as under:-

"मैंने उभयपक्षों के विद्वान अधिवक्तागण के तर्कों को सुना व जिला शासकीय अधिवक्ता (राजस्व) व नगरपालिका स्याना के अधिवक्ता के तर्कों को सुना। शिकायतकर्ता के अधिवक्ता द्वारा कहा गया कि यह भूमि कस्बा स्याना में थी, गाँव सराय की नहीं हैं, पट्टा गलत हुआ है एवं भूमि प्रबन्धक समिति सराय को पट्टा करने का कोई अधिकार नहीं है जबकि विपक्षी गुरसिंह सभा के अधिवक्ता द्वारा कहा गया है कि उनको नियमानुसार पट्टा हुआ है और वादी क्षुब्ध व्यक्ति नहीं है और उसे प्रश्नगत वाद दायर करने का कोई अधिकार नहीं है, उन्होंने यह भी कहा है कि भारतीय विधान के अनुच्छेद-13, 25 व 26 के अन्तर्गत धार्मिक स्थान के आबंटन पर कोई रोक नहीं है जबकि जिला शासकीय अधिवक्ता ने यह कहा है कि जमींदारी विनाश अधिनियम के प्रावधानों के अनुसार आबंटन होना चाहिए था और यह पट्टा गलत रूप से हुआ है तथा नगरपालिका की ओर से भी यह कहा गया है कि पट्टा अवैध तरीके से किया गया है जिसको निरस्त किया जाये। तहसील आख्या में यह कहा गया है कि प्रश्नगत भूमि टाउन एरिया की सीमा में है और इसका पट्टा भूमि प्रबन्धक समिति सराय को करने का कोई हक नहीं है। नगरपालिका के अधिवक्ता ने यह तर्क रक्खा है कि अब चूंकि टाउन एरिया के स्थान पर नगरपालिका बन चुकी है इसलिये इस भूमि का प्रबन्ध अब नगर पालिका स्थाना को करना है। पत्रावली पर उपलब्ध इन्तलाब व खसरा के देखने से यह स्पष्ट है कि प्रश्नगत भूमि ग्राम स्याना परगना स्याना की है जबकि प्रश्नगत भूमि के आबंटन की कार्यवाही भूमि प्रबन्धक समिति सराय द्वारा की गई है जिसका कोई अधिकार भूमि प्रबन्धक समिति सराय को नहीं था। लेखपाल व अधिशासी अधिकारी, नगरपालिका स्याना के ब्यानों से यह स्पष्ट है कि प्रश्नगत सम्पत्ति नगरपालिका स्याना की सीमा के अन्तर्गत है और राजस्व अभिलेखों से यह बिल्कुल स्पष्ट है कि प्रश्नगत भूमि का कोई मतलब भूमि प्रबन्धक समिति सराय से नहीं है। इस प्रकार प्रश्नगत भूमि आबंटन की जो कार्यवाही भूमि प्रबन्धक समिति सराय द्वारा की गई है वह अवैध है और किसी भी परिस्थिति में नियमानुसार नहीं है। उक्त के अतिरिक्त जिला शासकीय अधिवक्ता (राजस्व) के इस तर्क में भी बल है कि प्रश्नगत भूमि का आबंटन जमींदारी विनाश अधिनियम के प्रावधानों के अनुसार नहीं किया गया है और वरियताक्रम को छोड़कर प्रश्नगत भूमि का आबंटन / धार्मिक स्थल के लिये किया गया है। आबंटन पत्रावली के अवलोकन से यह स्पष्ट है कि भूमि प्रबन्धक समिति सराय द्वारा प्रश्नगत भूमि के आबंटन हेतु दिनांक 21-1-75 को प्रस्ताव किया गया है जिसकी स्वीति तत्कालीन परगना-अधिकारी द्वारा दिनांक 3-2-75 को की गई है जिससे यह स्पष्ट है कि भूमि प्रबन्धक समिति सराय द्वारा ग्राम स्याना की भूमि का आबंटन किया गया है जिसका कोई अधिकार भूमि

प्रबन्धक समिति सराय को नहीं था। इस प्रकार बिना क्षेत्राधिकार के किया गया उक्त आबंटन शून्य हैं। जहां तक प्रश्नगत भूमि का प्रबन्ध नगरपालिका द्वारा किये जाने का प्रश्न है, लेखपाल के ब्यानों व अधिशासी अधिकारी, नगरपालिका स्याना ने यह कहा है कि मौके पर विवादित भूमि की स्थित स्पष्ट नहीं है लेकिन उक्त दोनों के ब्यानों से यह स्पष्ट है कि प्रश्नगत भूमि नगरपालिका सीमा के अन्तर्गत हैं। चूंकि लेखपाल के ब्यान तथा कागजात के अवलोकन से स्पष्ट है कि ग्राम समाज भूमि सं० 2651/022-0 की स्थित मौके पर स्पष्ट नहीं है अतः नगरपालिका स्याना हदबन्दी द्वारा उक्त भूमि की स्थित का पता लगाये और उसके सम्बन्ध में सम्बन्धित विधिक कार्यवाही करें। वादी द्वारा दाखिल टाउन एरिया स्याना द्वारा पास शुदा नक्शा यह स्पष्ट करता है कि सड़क के पास नक्शे में दिखाई भूमि टाउन एरिया/नगरपालिका की न होकर वादी की हैं। यदि यह भूमि टाउन एरिया/नगरपालिका की थी तो टाउन एरिया/नगरपालिका द्वारा प्रश्नगत भूमि का नक्शा आदि पास करने के पूर्व इसके प्रबन्ध की विधिक कार्यवाही करनी चाहिये थी। इसप्रकार प्रश्नगत भूमि का आबंटन बिना अधिकार के भूमि प्रबन्धक समिति सराय द्वारा किया गया है जो अवैध है और निरस्त किये जाने योग्य हैं। आदेश

दावा वादी स्वीकार किया जाता है तथा भूमि प्रबन्धक समिति सराय का प्रस्ताव दिनांक 21-1-1975 व उस पर प्रदान की गयी परगनाधिकारी की स्वीकृत दिनांक 3-2-1975 निरस्त की जाती हैं। आदेश की एक प्रतिलिपि तहसीलदार स्याना को आवश्यक कार्यवाही हेतु भेजी जावे। बाद अनुपालन पत्रावली दाखिल दफ्तर की जावे।

दिनांक:- 10.12.1996 ह/०

(सुवर्दन)

अपर जिलाधिकारी, (प्रशासन), बुलन्दशहर।"

12. Perusal of the finding of fact recorded by the Additional Collector Demonstrate that plot in dispute was situated in Gaon Sabha/Town Area/Nagar Palika, Sarai, as such, authority at Sayana had no jurisdiction to allot the plot in question to anybody. The finding of fact recorded by the Additional Collector regarding allotment dated 21.1.1975/3.2.1975 is in accordance with law.

13. So far as right and title of Nagar Palika Parishad or respondent no.1/respondent no.4, Gullu Shah is concerned, there is no document on record in both the writ petitions about the source of title of Gullu Shah, as such, entry of plot in question as exist in the year 1975 will restore back after cancellation of allotment dated 21.1.1975/3.2.1975. The sanction map will not give any title to anybody unless there is any document of title supported by entry of the plot in question.

14. Considering the entire facts and circumstances of the case, **the Writ Petition No.15746 of 2001 filed by Nagar Palika Parishad is allowed and Writ Petition No.15733 of 2001 filed by Guru Singh Sabha Gurudwara Committee is dismissed.** The entry of the plot in question as exist before the allotment dated 21.1.1975/3.2.1975 is restored which will be corrected accordingly due to notification of town area/Nagar Palika Parishad issued by the State.

15. No order as to costs.

September 24, 2025
C.Prakash

(Chandra Kumar Rai,J.)