



2025:AHC:178961-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 22291 of 2025

Rakesh Kumar Tiwari

.....Petitioner(s)

Versus

Union Of India And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Pradip Kumar Srivastava
Counsel for Respondent(s)	:	Rajesh Kumar Jaiswal, A.S.G.I., Akanksha Gaur, C.S.C., Swetashwa Agarwal

Court No. - 29

**HON'BLE MAHESH CHANDRA TRIPATHI, J.
HON'BLE KUNAL RAVI SINGH, J.**

1. Heard Sri P.K. Srivastava, learned counsel for the petitioner, Sri R.K. Jaiswal, learned counsel for respondent no. 1, Ms. Akanksha Gaur, learned counsel for respondent nos. 2 and 3 and Sri Ambrish Shukla, learned A.C.S.C. for the State-respondent.
2. The instant writ petition is preferred assailing the validity of the order dated 14.02.2025 passed under Section 26(2) of the Control of National Highways (Land and Traffic) Act, 2002 (in short 'Act, 2002'), wherein time to time notices were issued under Section 26(2) of the Act, 2002 alleging that the petitioner has encroached upon the National Highway and, accordingly, the notice was issued to remove the illegal encroachment made on road, which is national highway.
3. Learned counsel for the petitioner vehemently contended that till date the petitioner is actual owner of Gata No. 214 and 215, situated at Village-Raniya Padaw, Tehsil-Akbarpur, District-Kanpur Dehat with transferable right and the said land has not been acquired for widening of National Highway. He submits that a detailed objection to the notice has already been filed, however, even without actual demarcation of the land, the respondents have proceeded to pass the order impugned in arbitrary manner and unnecessarily harassing the petitioner. Further, learned counsel for the petitioner makes a statement on instruction that the petitioner has not encroached upon the land of national highway.

4. Ms. Akanksha Gaur, learned counsel for N.H.A.I. has placed a detailed instructions and submits that as per the survey report there is an encroachment over Gata No. 210, which is earmarked as national highway and, accordingly, notices were issued.

5. Considering the factual situation, we find that even though the survey was conducted as per the order impugned but as the petitioner insists upon that there is no encroachment over the national highway and petitioner has specifically not encroached the land of Gata No. 210, which is earmarked as national highway, the District Magistrate, Kanpur Dehat is directed to depute some revenue officer and carry out actual survey on the spot in the presence of the petitioner and officials of N.H.A.I. The said exercise may be carried out within six weeks from the date of production of a certified copy of this order.

6. As the petitioner has already given an undertaking that in case any such encroachment by the petitioner is found over the land of national highway, definitely the petitioner shall remove the same.

7. In view of the above observation, the writ petition stands **disposed of**.

(Kunal Ravi Singh,J.) (Mahesh Chandra Tripathi,J.)

October 8, 2025

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