

Court No. - 34

Case :- WRIT - C No. - 24032 of 2024

Petitioner :- Rishi Pal Singh

Respondent :- State Of Up And 4 Others

Counsel for Petitioner :- Hemant Sharma

Counsel for Respondent :- C.S.C.

Hon'ble Rohit Ranjan Agarwal,J.

1. This Court, on 22.4.2025, had passed the following order:

"1. Heard Sri Santosh Kumar Rai, learned counsel for the petitioner and Sri Jitendra Narain Rai, learned Additional Chief Standing Counsel appearing on behalf of State-respondents.

2. By means of the present writ petition the petitioner has prayed for the following relief:

"i. Issue a writ order or direction in the nature of mandamus commanding and directing the concerned respondents not to interfere in peaceful possession of the petitioner and their family members over the Gata No.1079/3 situated in Mauja Suratgarh @ Londhayi, Tehsil Anoopshahar, District Bulandshahar.

ii. Issue a writ order or direction in the nature of mandamus commanding and directing to the respondent to decide the matter of the petitioner pending before the concerned respondents.

Iii.

iv. "

3. This Court vide order dated 04.04.2025 directed the Sub Divisional Magistrate, Anoopshahar (respondent no.4) to appear in person along with complete records, to assist the Court.

4. In pursuance of the order dated 04.04.2025, Ms. Priyanka Tiwari, Sub Divisional Magistrate, Anoopshahar, District-Bulandshahr, is present in the Court along with relevant records.

5. Learned Additional Chief Standing Counsel appearing for the State-respondent filed a Personal Affidavit dated 22.04.2025 by the Sub Divisional Magistrate, Anoopshahar, District-Bulandshahr, today in the Court. The same is taken on record.

6. The Sub Divisional Magistrate, Tehsil- Anoopshahar, District- Bulandshahr in her personal affidavit dated 22.04.2025 has stated as under:

"6. That there is Gata No. 1079 adjacent to Gata No.1080, which is recorded in the name of Anangpal Singh son of Mahendra Singh and others. In Gata No.1079, vide order dated 08.10.1985 passed by the Sub Divisional Officer, Anoopshahar, and the order dated 30.05.1995 passed by the Additional District Magistrate, the map was corrected/amended, in which Gata No.1072/2, the Jahangirabad- Daulatpur road of Public Works Department is shown, which on the spot is the 'Kali Sadak' and the Gata No.1079/3 area 0.042 hectare is recorded in the name of Anangpal Singh son of Mahendra Singh and others as Bhumidhar with transferable rights under Shreni-1Ka, which has been shown in the Southern direction of the Gata No.1079/2. In the southern direction of the Gata No.1079/3, there is Gata No.1080, which is recorded as 'Rasta', which on the spot is vacant and is in the form of Sadak.

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9. That thereafter, on asking of both the parties, separately the length of both the fields were measured. Plot Nos.1078 and 1079 of the Anangpal and others are adjoining. Both the Gatas are adjoined at the western arm, which is from Anoopshahar to Shikarpur Pakka Road. On measurement, on the spot it comes to 403 meters, while in the map it comes to 399 meters, which is more than its original length. Therefore, no question arose for the part of Plot No.1079 to go to the South from Jahangirabad to Daulatpur, P.W.D. Road.

10. That it is further submitted that Gata No.1078Sa was recorded in the names of Anangpal, Rishipal Singh, both sons of Mahendra Singh, Sri Shrishvimal son of Sripal Vimal and Suresh Pal Singh son of Mahendra Singh, recorded as Bhumidhar with transferable rights, Gata No.1079/1 is recorded in the name of Anangpal Singh, Rishipal Singh, both sons of Mahendra Pal Singh, Gel India Limited, Upkram of Government of India, H.V.J. Compressor Station authorized representative and Chaman Sharma son of Balvir Singh, Ramwati wife of Mahavir, Ramautar Sharma son of Balvir Singh, Shrish Vimal son of Sripal Vimal and Suresh Pal son of Mahendra Pal Singh, as Bhumidhar with transferable rights, Gata No. 1079/2M is recorded in the name of above persons, Gata No.1079/3 was recorded in the name of above persons, the road of P.W.D. was also recorded in the Plot No.1079M, Gata Nos.1192 and 1193 are recorded in the name of Janta Adarsh Vidyalaya. Above Gatas have their own areas as mentioned in the Khataunis itself.

11. That it is also relevant to mention here that the amended map, upon which basis the petitioner seeking land, in the amendment of map, Sadak/Rasta is shown, on most of the part thereof, the petitioner has got constructed the Pakki shops near about 25 in numbers, where at present road is going on. From mid part thereof, most of the parts of shops/building comes under the limit of the Road, as such, the petitioner and other persons themselves had not followed the order for amending the map, as such, the petitioner illegally encroached the amended road by constructing Pakki shops.

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21. That it is relevant to mention here that neither the petitioner in the present writ petition has made party to the Janta Adarsh Inter College nor the Public Works Department. The respondent no.5 or any other Revenue

Officer/employee is not making any interference on the spot.

22. That it is further submitted that neither the respondent no.5 (Tehsildar, Tehsil- Anoopshahar, District- Bulandshahar) nor the Lekhpal concerned, and others Revenue Authorities are interfering into the peaceful possession of the petitioner. The petitioner is only mislead this Hon'ble Court by making false statement against the respondent no.5 and other Tehsil Authorities. He only wants to grab the PWD land and the land of the above college, Saudan Singh Janta Adarsh Inter College."

7. Sri Jitendra Narain Rai, learned Additional Chief Standing Counsel on the basis of the written instructions received from the respondent no.4 submits that in so far as the claim in the present writ petition in respect of Gata No. 1079/3 is concern, the same is admeasuring 0.042 hectare and is recorded in the name of Anangpal Singh son of Mahendra Singh and others as Bhumidhar with transferable rights under Shreni-1Ka. The said plot lies in the Southern direction of the Gata No.1079/2. In the southern direction of the Gata No.1079/3, there exists Gata No.1080, which is recorded as 'Rasta'. He further submits that in respect of Gata No.1079, vide order dated 08.10.1985 passed by the Sub Divisional Officer, Anoopshahar, and the order dated 30.05.1995 passed by the Additional District Magistrate, the map was corrected/amended, wherein Gata No.1072/2 is shown as the Public Works Department Road (Jahangirabad- Daulatpur road).

8. Learned Additional Chief Standing Counsel by drawing attention of this Court to the averments made by Sub Divisional Officer (respondent no 4) in para 10 of her personal affidavit dated 22.04.2025 raised an objection that the present writ petition is hit by the law of non-joinder of necessary parties, as the petitioner has neither made party to the Janta Adarsh Inter College nor the Public Works Department, Government of U.P.

9. On the basis of the above-mentioned written instructions the learned Additional Chief Standing Counsel made categorical statement that neither the Tehsildar (respondent no.5) nor the concerned Lekhpal or any other Revenue Authorities have interfered into the peaceful possession of the petitioner over the Gata No. 1079/3 ad-measuring area 0.042 hectare as is shown in the corrected/amended map; rather the petitioner under the garb of the instant writ petition intends to grab the PWD land and the land of the above college, Saudan Singh Janta Adarsh Inter College.

10. Taking into consideration the aforesaid disputed factual matrix of the case; in order to cull out the correct position on the spot, for the just and proper adjudication of the matter, the Sub Divisional Magistrate, Anoopshahar, District-Bulandshahr (respondent no.4) is directed to conduct a thorough spot inspection and get prepare a detailed report, in presence of all the parties concerned, in respect of the disputed site and submit the same by way of Supplementary personal affidavit, before this Court on or before the next date fixed in this case.

11. Needless to say, that the aforesaid exercise/proceeding shall be carried out by the Sub-Divisional Officer, Anoopshahar, District-Bulandshahr (respondent no.4) after due circulation of information/notice to the parties concerned.

12. *Personal appearance of the Officer present today in the Court is dispensed with, until further orders.*

13. *Put up this case as fresh on 02.07.2025."*

2. Pursuant to the said order, a personal affidavit of the officer concerned has been filed today, which is taken on record.

3. In paragraph Nos. 5 to 12 of the personal affidavit, details of spot inspection made by the officer and the measurement, so conducted, was given. The said paragraphs are extracted hereas under :

"5. That thereafter, deponent has constituted a Revenue Team vide order dated 28.07.2025 of the Revenue Authorities and again served notice upon the all parties of the writ petition and recorded tenure holders to present at the place of inspection on 29.07.2025.

6. That on 29.07.2025 deponent alongwith Revenue Team and Police Force and from the other side Executive Engineer, Public Works Department, President Land Management Committee and recorded tenure holder present at the place of inspection and measurement of the land in dispute Gata nos. 1078, 1079, 1079/2 & 1079/3.

7. That Revenue Team started measurement from the Arazi no. 1210 from its corner where fixed point is situated for measuring the Jahangirabad to Daulatpur Road which was 1180 meter whereas its bhu-chitra its land is 1189 meter. Therefore, length of Jahagirabad to Daulatpur is less by 9 meter and as per the bhu-chitra measurement went to the middle of the Jahangirabad to Daulatpur road.

8. That thereafter, second fixed point was in the corner of Arazi no. 1065 measurement started from the fixed point to Jahangirabad to Daulatpur Road and measured the North Side of Arazi no. 1078 of the which is recorded in the name of Anagpal and others treating it as mark point. Gata no. 1078 and 1079 are adjoining gata there is no any dividing ridge between gata no. 1078 & 1079 and west side of both the gatas are just adjacent to Anoopshahar to Sikarpur, Public Works Department Road and from the fixed point to the Gata no. 1078 total distance is 403 meter which came upto the middle of Jahangirabad to Daulatpur Road in the Bhu-chitra the above noted distance is 399 meter and as such 4 meter length is more than that of its bhu-chitra.

9. That for measurement of Gata no. 1078 1079 as both gatas are joint gata there is no division mark between them. Revenue Team divided the aforesaid gata in four part total area of the both the gatas is 1.1566 hectare whereas area gata no. 1078 is 0.3120 hectare and area of gata no. 1079/1 is 0.6580 hectare, area of gata no. 1079/2 is 0.0410 hectare, area of gata no. 1079/3 is 0.0420 hectare and area of gata no. 1079M is 0.0600 hectare which is recorded as public utility land in the revenue record and as such as per the revenue record and Bandobast totao area of gata no. 1078 and 1079/1, 1079/2, 1079/3 is 1.0530 hectare whereas on spot joint area of both the gatas are 1.0966 hectare, therefore, as per the bhu-chitra and bandobas are of gata

no. 1078 and 1079/1,2 & 3 is measured than that of its Bandobast and Bhu-chitra 0.0436 hectare. For kind perusal of Hon'ble Court a copy of Sajra of gata no. 1078 & 1079 spot memo and report of the Revenue Team are jointly filed herewith and marked as Annexure No. PA-1 to this personal affidavit.

10. That as per the Nazri Naksa prepared by the Revenue Team with regard to Gata no. 1078 & 1079 situated in the Village Suratgarh @ Lothai, Pargana & Tehsil Anoopshahar, District Bulandshahr, aforesaid gatas divided into 4 part and first of all Revenue Team measured A. B. C & D area of the Nazri Naksa fixing A. D and B, C as paralel point, length of A D and B C is 399 meter and width of the A B and C D is 6 meter and as such road Anoopshahar to Sikarpur its point A, B, C & D its area is $399 \times 6 = 0.2394$ hectare. Whereas area of the B, E, F, C & D is 0.9172 hectare as such joint area of gata no. 1078 and 1079 is bigger by than that of its Bandobast and bhu-chitra by 0.0436 hectare. For kind perusal of Hon'ble Court a copy of Nazri Naksa of the gata no. 1078 is being filed herewith and marke as Annexure no. PA-2 to this personal affidavit.

11. That Special Land Acquisition Officer Bulandshahr has issued record of right with regard to the notification under Section 4 of the Land Acquisition Act, 1894 no. 4843/46/15/37/OSD/81 dated 04.04.1983 which was published in the gazette on 18.06.1983 by which gata no. 1069 area 0.0600 hectare has been acquired by the Public Works Department, Bulandshahr.

12. That on spot as per the measurement point A, B, C, D & A total area 0.2394 hectare and total area of point B, E, F, C & B is 0.972 hectare and total area of the both the gatas are 1.1566 hectare whereas in the revenue record area of the gata no. 1078 is 0.3120 hectare recorded in the name of Anagapal, Rishpal Singh, Sureshpal Singh sons of Mahendra Pal Singh and Shrish Vimal son of Shri Pal Vimal Resident of Village Rajpur whereas Gata no. 1079/1 area 0.6580 hectare, Gata no. 1079/2 area 0.0410 hectare, Gata no. 1079/3 area 0.0420 hectare recorded in the name of tenure holder Anagapal, Rishpal Singh, Sureshpal Singh sons of Mahendra Pal Singh and Shrish Vimal son of Shri Pal Vimal and GAIL India Ltd. of the Government of India/AHDK Compressure Station authorised representative Amart Chaudhary Resident of Village, Chaman Sharma, Ram Autar Sharma sons of Balbeer Singh Resident of Village Bhailai total area 1.053 hectare and Gata no. 1079M area 0.0600 hectare is recorded as public utility land and as such total area of the Gata no. 1078 and 1079 is 1.0530 hectare whereas as per the measurement of the gata no. 1078, 1079/1, 1079/2 & 1079/3 total area is 1.0966 hectare whereas as per the abad Allahab Bandobast and Bhu-chitra area of both gatas is 1.0530 hectare excluding the gata no. 1079M area 0.0600 hectare, thus compared to area of gata no. 1078, 1079/1, 1079/2 & 1079/3 as per government revenue record, there is an excess of 0.0436 hect as per the site measurement."

4. The writ petition has been filed by the petitioner seeking a writ of mandamus commanding the respondents not to interfere over Gata No.1079/3 situated in Mauja Suratgarh @ Londhayi, Tehsil Anoopsahar, District Bulandshahar. The spot inspection has been done and a report has come pursuant to the order of the Court. Hence, nothing remains to be adjudicated in the writ petiton under

Article 226 of the Constitution of India.

5. The writ petition stands disposed of in terms of the report of spot inspection, so submitted.

Order Date :- 7.8.2025

Kushal