



2025:AHC:175263-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 34959 of 2025

Gyanendra And 2 Others

.....Petitioner(s)

Versus

State Of U.P. And Another

.....Respondent(s)

Counsel for Petitioner(s)	:	Utkarsh Birla, Aarushi Birla
Counsel for Respondent(s)	:	C.S.C., Raghuvansh Misra

Court No. - 40

**HON'BLE SARAL SRIVASTAVA, J.
HON'BLE AMITABH KUMAR RAI, J.**

1. Heard learned counsel for the petitioners, learned Standing Counsel for the respondent No.1 and Sri Raghuvansh Mishra, learned counsel for the respondent No.2.

2. By means of the present writ petition, the petitioners have prayed for the following reliefs:--

"(a). A writ, order or direction in the nature of mandamus staying the effect and operation of the Notice dated 19.09.2025 issued by the respondent No.2 and restraining them from interfering in the peaceful possession of the property bearing Khasra No.1294Mi, admeasuring 196 sq. metres, situated at Village Makanpur, Pargana Loni, Tehsil and District Ghaziabad, till the final adjudication of the Appeal filed under S. 9 of the Act of 1972 registered as Misc. Case No.236 of 2025 (Gyanendra and 2 others v. Nagar Nigam, Ghaziabad).

(b). Any other writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

(c). Award the cost of the writ petition throughout in favour of the petitioners."

3. The petitioners have preferred statutory appeal under Section 9 of the Uttar Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 1972 against the order dated 07.08.2025 in Case No.7143 of 2023 and in the appeal, stay application has been filed for staying the order dated 07.08.2025 passed by the Prescribed Authority in case No.7143 of 2023. It is contended that for certain reasons beyond the control of the petitioners, the stay application could not be heard and during the pendency of the appeal, Nagar Nigam has affixed a notice at the house of the petitioners for vacating the

house so that the house may be demolished. Accordingly, he submits that in case the house is demolished, the appeal of the petitioners would render infructuous.

4. Learned counsel for the respondent No.2 would contend that the stay application alongwith the appeal is pending before the Appellate Court and therefore, this Court may refrain from interfering at this stage.

5. Be that as it may, the record reveals that the petitioners have preferred statutory appeal under Section 9 of the Uttar Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 1972 against the order dated 07.08.2025. Alongwith the appeal, the petitioners have also filed the stay application which could not be considered by the Appellate Court for certain reasons. The respondent-Nagar Nigam is expected not to proceed with demolition of the house of the petitioners, once the statutory appeal has been preferred by a person against the order dated 07.08.2025 passed by the Prescribed Authority inasmuch as if the structure of the house is demolished, the affect of that would be that the cause of action of the petitioners would become infructuous.

6. In such view of the fact and considering the peculiarity of the fact, we **dispose off** the writ petition with direction to the Appellate Court to decide the statutory appeal filed by the petitioners under Section 9 of the Uttar Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 1972 against the order dated 07.08.2025 passed in Case No.7143 of 2023 within a period of four months from the date of production of certified copy of this order.

7. Till the appeal of the petitioners is decided, the respondent No.2-Assistant Municipal Commissioner/Property Incharge, Nagar Nigam, Ghaziabad is restrained from demolishing the house in question and evicting the petitioners from the house in question.

September 26, 2025
SS

(Amitabh Kumar Rai,J.) (Saral Srivastava,J.)