

Court No. - 2

Case :- WRIT - C No. - 5995 of 2025

Petitioner :- Shane Awadh Gaushala Samiti Thru.Secy. Jagdishwara Dandi Swami

Respondent :- State Of U.P. Thru. Prin. Secy. Urban Development Lko. And 4 Others

Counsel for Petitioner :- Ashok Kumar Singh,Rahul Kumar Singh

Counsel for Respondent :- C.S.C.,Ratnesh Chandra

Hon'ble Alok Mathur,J.

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard Shri Ashok Kumar Singh, learned counsel for petitioner, learned Standing Counsel for respondents No. 1, 4, 5 as well as Shri Ratnesh Chandra, learned Standing Counsel for respondents No. 2 and 3.

2. By means of this petition, the petitioner has prayed for following directions:-

"i) Issue a writ, order or direction in the nature of Mandamus directing opposite Parties that they will comply with the order passed by learned Court of Civil Judge North (Junior Division), Lucknow in Civil Suit bearing No.2587/2017 (Shane Awadh Gaushala Samiti (Registered) from its Secretary Jagdishwar Dandi Swami versus Maukulal Maurya and others on 09.12.2024 (Annexure No.5 to the present writ petition).

ii) Issue a writ, order or direction in the nature of Mandamus commanding the respondents no. 2 and 3 not to demolish the structure of petitioner related to that matter which is subjudice with the learned Court of Civil Judge North (Junior Division), Lucknow (Annexure no.3 to the present writ petition)."

3. It is noticed that the petitioner has already filed a civil suit for permanent injunction in the year 2017 before Civil Judge North (J.D.), Lucknow which is registered as Civil Suit No.2587 of 2017, titled as Shane Awadh Gaushala Samiti (Registered) from its Secretary Jagdishwar Dandi Swami versus Maukulal Maurya and others. It has further been stated that the petitioner has moved an application for injunction, whereupon the trial court by means of order dated 09.12.2024 has passed

an order to maintain status quo for restraining the respondents from interfering in peaceful possession of the petitioner. The grievance of the petitioner is that despite the injunction dated 09.12.2024, the private respondents are continuing to raise the constructions.

4. This court is of the considered view that in case there is any violation of the injunction/interim injunction granted by the trial court, then the appropriate remedy for the petitioner is to approach by moving an application under Order 39 Rule 2A of the CPC and after considering all the material on record, the trial court is empowered to pass adequate orders ensuring compliance of his interim injunction. Apart from the above, the allegation of violation of interim injunction in the disputed question of fact which can not be decided in summary proceedings under Article 226 of the Constitution of the India and apart from the above, when the petitioner is already subjected himself to approach the trial court, it would be appropriate when appropriate application in this regard be moved before the trial court.

5. Accordingly, the petition is **disposed of** giving liberty to the petitioner to move appropriate application before the trial court under Order 39, Rule 2A within next two weeks. On receipt of the said application, the trial court shall proceed to consider and decide the same expeditiously.

(Arun Kumar Singh Deshwal,J.)

(Alok Mathur,J.)

Order Date :- 23.6.2025

KR