



2026:AHC:192604-DB

Reserved on 11.08.2026

Delivered on 15.09.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 18859 of 2018

Uma Devi And 2 Others

.....Petitioner(s)

Versus

State Of U P And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Rajesh Kumar Mishra, Vishnu Pratap
Counsel for Respondent(s)	: Abhinava Krishna Srivastava, C.S.C., Pradeep Kumar Tripathi

Court No. - 40

HON'BLE SARAL SRIVASTAVA, J.

HON'BLE SUDHANSHU CHAUHAN, J.

(Delivered by Hon'ble Sudhanshu Chauhan, J.)

1. Heard Shri Vishnu Pratap, learned counsel for the petitioners, learned Standing Counsel for State and Shri Abhinava Krishna Srivastava, learned counsel for the respondent no.3.

2. The present writ petition has been filed, being aggrieved by the order dated 21.02.2018, passed by the Competent Authority, Urban Ceiling, Kanpur Nagar, by means of which the representation of the petitioners dated 07.02.2018 for expunging the entries in the name of the State and recording the same in the name of the petitioners has been rejected. Besides, a direction has also been sought to restore the entries in the name of the petitioners in the revenue records in respect of the land in dispute.

3. The present controversy arises out of proceedings under the Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter referred to as "the Act, 1976"). The land in dispute measures about 11,819.96 sq. m. and is comprised in Gata No. 145, Gata No. 70, and Gata No. 146, situated in Village Kharagpur, Kanpur Nagar.

4. The original landholder of the land in dispute was Ram Autar, father of petitioner nos. 2 and 3 and father-in-law of petitioner no. 1. Ram Autar had filed a ceiling return under Section 6(1), which was registered as

Ceiling Return No. 8908. Subsequently, notice under Section 8(3) was issued on 12.05.1979 and an order dated 25.10.1980 was passed under Section 8(4) declaring 11,819.96 square meters of land as excess vacant land. The notice under Section 9 dated 20.12.1980 was issued. Thereafter, notifications under Sections 10(1) and Section 10(3) were published in the State Gazette on 26.12.1981 and 16.03.1985 respectively. It is further alleged on behalf of the respondents that possession of the land in dispute was taken on 25.05.1992. Thereafter, possession of the land in dispute was transferred to the Kanpur Development Authority.

5. It is the contention of the learned counsel for the petitioners that notice under Section 9 was never served upon Ram Autar. It is further stated that notice under Sections 10(5) and 10(6) was never sent to Ram Autar. Further, the letter dated 09.04.1992, in pursuance of which possession was allegedly taken on 25.05.1992, cannot be said to be a notice under Section 10(6), and it was never sent to the original tenure-holder, Ram Autar. Further, the petitioners have relied upon the Khasra for Fasli Years 1400, Fasli Year 1408 and Fasli Year 1421 corresponding to years 1993 CE , 2001 CE and 2014 CE respectively, to show that the petitioners are in possession of the land in dispute. Hence, it is contended that, in view of the fact that no notice under Section 10(5) was ever served upon the original tenure-holder, Ram Autar, nor was actual physical possession taken under Section 10(6), thus, the petitioners are entitled to remain in possession of the land in dispute. Further, respondent no. 2, in the impugned order dated 21.02.2018, had wrongly held that possession, in pursuance of the notice dated 09.04.1992 issued under Section 10(6), had been taken on 25.05.1992.

6. Per contra, learned counsel for the respondents contended that Ram Autar was duly served with the notice under Section 8(3) and in this regard, reliance has been placed upon the acknowledgment dated 06.06.1979, received upon delivery of the notice under Section 8(3) sent to Ram Autar through registered post. It is also contended that Ram Autar had filed his objection dated 11.10.1979 before the Competent Authority. Besides, time was also sought by Ram Autar to place further evidence before the Competent Authority. Under these circumstances, it cannot be said that Ram Autar had no knowledge regarding the proceedings under

Section 8 (4) of the Act, 1976. Subsequently, by means of the order dated 25.10.1980 passed under Section 8(4) 11,819.96 square meters of land was declared excess vacant. Thereafter, the final statement under Section 9 dated 20.12.1980 was sent to Ram Autar through registered post and the acknowledgment thereof was also received. Notifications under Sections 10(1) and 10(3) were published in the State Gazette on 10.02.1981 and 16.03.1985.

7. Subsequently a notice under Section 10(5) was issued to Ram Autar through registered post on 17.10.1988. The said notice was also duly served upon Ram Autar on 24.10.1988, and the acknowledgment due thereof has been filed as CA Annexure No. 3 to the counter affidavit. However, as possession of the land in dispute was not handed over to the respondents, a direction was issued on 09.04.1992 by the District Magistrate to the Tehsildar and possession of the land in dispute was taken on 25.05.1992. In the meanwhile, vide order dated 25.03.1989 the land in dispute was directed to be recorded in the name of State in the revenue records. Further the possession of the land in dispute was transferred to the Kanpur Development Authority-respondent no. 3, on 24.10.2001. Thus, it is contended that the proceedings under the Act, 1976 stood concluded much prior to the enforcement of the Repeal Act, 1999, and as such, the impugned order dated 21.02.2018 has rightly been passed.

8. We have perused the records as well as the original records of the Case No. 8908 (State vs. Ram Autar). The record reveals that the notice under Section 8(3) was duly served upon the original landholder Ram Autar and he had also filed his objections dated 11.10.1979. Subsequent to the order dated 25.10.1980 passed under Section 8(4). The notice under Section 9 was also duly served upon Ram Autar. Thereafter, the notice under Section 10(5) was also issued through registered post and served upon Ram Autar on 24.10.1988. As the original landholder did not voluntarily hand over possession of the land in dispute, a direction was issued on 09.04.1992 by District Magistrate to the concerned Tehsildar and possession of the land in dispute was taken on 25.05.1992. Hence, there is no infirmity in the procedure followed by the respondents in complying with the provisions of the Act, 1976.

9. In this regard, the pleadings of the parties are also relevant the petitioners in paragraph no.12 of the writ petition has stated as under:-

“12. That, after impugned order was passed by the competent authority the Petitioners got the original record inspected and found that the notice under Section 10(5) of the Urban Land (Ceiling and Regulation) Act 1976 and under Section 10(6) of the Urban Land (Ceiling and Regulation) Act 1976 was never even sent either to the original tenure holder or to the present writ Petitioners.”

10. The respondents in paragraph no. 14 of the counter affidavit in response thereto have stated as under:-

“14. That the contents of paragraph no. 12 of the writ petition is incorrect as stated hence denied. In reply thereto it is submitted that the notice under section 10(5), dated 17.10.1988 was sent to the original tenure holder by the registered post. A copy of the registry receipt is being enclosed herewith and marked as Annexure No. C.A.-3 to this affidavit. However within the prescribed time no objection was received and therefore on 25.02.1992, the possession was obtained of the disputed land under section 10(6). No separate notice was required to be sent under section 10(6) in view of the law laid down in (State of Assam Vs. Bhaskar Jyoti Sharma). In writ petition no. 20035/2016 Polu Vs. State of U.P. this Hon'ble court has held that notice under section 10(6) is not required to be sent to the original tenure holder since no hindrance was caused at the time of taking possession on the spot.”

11. The petitioners, in response thereto, in the rejoinder affidavit, have stated as under:-

“14. That, averments made in paragraph No.14 of the counter affidavit as stated are not admitted. In reply averments made in para 13 of Writ Petition is reiterated and reaffirmed as true. However the case of State of Assam Vs Bhashkar Jyoti Sharma which has been relied upon by the Respondents in para under reply do not have any relevance with the facts of the instant case and the same shall be placed before the Hon'ble Court at the time of the argument.”

12. As the petitioners, in paragraph no. 14 of the rejoinder affidavit, have placed reliance on paragraph no. 13 of the writ petition, the same is also reproduced hereinunder and reads as below:-

"13. That, thereafter the Petitioners obtained the certified copy of the letter issued by

the competent authority to Tehsildar Kanpur dated 9.4.1992. A perusal of the aforesaid letter indicates that by the said letter the competent authority has directed the Tehsildar to take the possession as well as mutate the name of the urban ceiling in the revenue record. On the back of the aforesaid letter there was a report of Tehsildar it has been mentioned in the impugned order as possession report dated 25.5.1992. For kind perusal of this Hon'ble Court a true/photo copy of certified copy of the letter dated 9.4.1992 and report on the back of dated 25.5.1992 is being annexed herewith and marked as Annexure No.4 of this writ petition."

13. Thus, upon perusal of the averments made in the relevant paragraphs of the rejoinder affidavit and the writ petition, the petitioners do not dispute the service of the notice under Section 10(5) issued to the original landholder, Ram Autar. Besides, the petitioners also do not dispute the fact that possession of the land in dispute was taken over on 25.05.1992. Further, the petitioners in the writ petition had incorrectly alleged that notice under Section 10(5) was sent to original landholder.

14. It would not be out of place to mention here that the petitioners have failed to produce any evidence to show that the petitioners were in valid possession of the land in dispute at the time of enforcement of the Repeal Act, 1999 or thereafter, as the Khasras relied upon by the petitioners reveal that the land in dispute was recorded in the name of Urban Ceiling.

15. Thus, it is beyond doubt that possession of the land in dispute stood transferred to the respondents in pursuance of the possession memo dated 25.05.1992. Besides, the land in dispute was also recorded in the name of Urban Ceiling in the revenue records way back in the year 1993, as per own showing of the petitioners. Further, the petitioners have failed to produce any evidence to demonstrate that they were in possession of the land in dispute.

16. It is also relevant to state here that the petitioners after taking over of possession on 25.05.1992 and mutation in the revenue records in the year 1993, for the first time on 07.02.2018 had filed a representation before respondent no. 2 for recording the land in dispute in the name of the petitioners in the revenue records, however, the same was rejected vide order dated 21.02.2018. Hence, it is beyond doubt that the petitioners, for the first time, approached the Competent Authority-respondent no. 2 after

a lapse of about twenty six years since, the taking over of possession of the land in dispute by the respondents.

17. As such, the present writ petition is also liable to be dismissed on the ground of delay in view of the law laid down by the Apex Court in the case of **State of Assam Vs. Bhaskar Jyoti Sarma & Ors., (2015) 5 SCC 321** and **Kapilaben Ambalal Patel & Ors. Vs. State of Gujarat & Anr., (2021) 12 SCC 95**, as well as by the coordinate Bench of this Court in **Writ-C No. 38977 of 2022 (Mithai Lal & Ors. Vs. State of U.P. & Ors.)**, decided on 16.02.2023, and in **Writ-C No. 19612 of 2018 (Kumbha Karan Vs. State of U.P. & Ors.)**, decided on 25.03.2026.

18. Under these circumstances, the writ petition lacks merit and is hereby **dismissed**. No order as to costs.

19. The office is directed to return the original records received from the office of Competent Authority, Urban Ceiling, Kanpur to the office of learned Chief Standing Counsel forthwith.

(Sudhanshu Chauhan,J.) (Saral Srivastava,J.)

September 15, 2026

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