



2026:AHC:196048

Reserved on 03.09.2026

Delivered on 18.09.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 2259 of 2022

Rajendra Prasad

.....Petitioner(s)

Versus

State of U.P. and 11 others

.....Respondent(s)

Counsel for Petitioner(s)	: Shrey Sharma
Counsel for Respondent(s)	: Arvind Srivastava, C.S.C., Kunal Shah, Tarun Jha

HON'BLE ARUN KUMAR, J.

1. Heard Sri Shrey Sharma, learned counsel for the petitioner, learned Standing Counsel for respondent nos. 1 and 9 and Sri Arvind Srivastava, learned counsel appearing for the contesting respondent nos. 2 to 8.

2. By means of the present writ petition, the petitioner has assailed the order dated 29.06.2022 passed by the Board of Revenue, Allahabad in Case No. REW/1743 of 2022, whereby the review application preferred by the petitioner came to be dismissed. The petitioner has also challenged the order dated 28.01.2020 passed by the Board of Revenue in Second Appeal No. 744 of 2019 and the order dated 20.04.2018 passed by the Additional Commissioner, Jhansi Division in Appeal No. 650 of 2015.

3. The dispute pertains to Plot No. 1957 situated at Mauja, Pargana and Tehsil Konch, District Jalaun. The petitioner claims his rights

through Kishan Prasad, who, according to the petitioner, was adopted by Sharda Prasad, the erstwhile recorded Zamindar. The contesting respondents, on the other hand, claim through Awadh Bihari Lal and assert that their predecessor and thereafter the respondents have been recorded in the revenue records and have remained in possession over the disputed land.

4. The principal case set up by the petitioner is that the disputed land was non-Zamindari Abolition (non-ZA) land and continued to be governed by the provisions of the U.P. Tenancy Act, 1939 (hereinafter referred to as the “Tenancy Act”). It is contended that the revenue entry made in favour of Awadh Bihari Lal pursuant to the proceedings culminating in the order dated 31.03.1984 was illegal, having allegedly been made without notice to the petitioner's predecessor and without jurisdiction. The petitioner also disputes the applicability of the U.P. Urban Areas Zamindari Abolition and Land Reforms Act, 1956 (hereinafter referred to as the “Act of 1956”) to the disputed plot.

5. The contesting respondents have disputed the aforesaid assertions. According to them, the historical Khataunis establish that Awadh Bihari Lal was recorded in the revenue records and was in possession of Plot No. 1957. They further rely upon the Gazette notification dated 24.06.1961 issued under Section 8 of the Act of 1956 and contend that the area falling within Tehsil Konch was brought within the operation of the said enactment with effect from 01.07.1961.

6. The contesting respondents have, in particular, placed reliance upon the historical revenue records, including the Khatauni of 1356 Fasli and the subsequent entries, to demonstrate continuity of the entries in favour of their predecessor and his successors. They have also relied upon the material concerning the tenure rights claimed by Awadh Bihari Lal and the subsequent proceedings whereby his name came to be recorded in the revenue records. The respondents further contend that the statutory notification dated 24.06.1961 has an important bearing upon the applicability of the Act of 1956 to the disputed land.

7. The litigation between the parties has a chequered history. Kishan Prasad instituted proceedings under Section 60 of the Tenancy Act. The said proceedings were dismissed on 12.08.1995. The appeal preferred against the said order was allowed by the Additional Commissioner on 01.10.2007. However, the Board of Revenue, in Second Appeal No. 71 of 2007-08, by order dated 23.11.2007, set aside the appellate order and remanded the matter for fresh consideration.

8. Upon transfer of the proceedings to Moth, the Sub-Divisional Magistrate, Moth, by order dated 21.07.2015, held the proceedings under Section 60 of the Tenancy Act to be maintainable. The said order was challenged by the contesting respondents in Appeal No. 650 of 2015. The Additional Commissioner, by order dated 20.04.2018, allowed the appeal and set aside the order passed by the Sub-Divisional Magistrate, Moth. While doing so, the Additional Commissioner considered the historical revenue entries, the material relating to the tenure and possession claimed by the contesting respondents, the proceedings culminating in the order dated 31.03.1984 and the statutory provisions governing the disputed land. The Additional Commissioner also examined the applicability of the urban Zamindari abolition regime and concluded that the proceedings instituted under Section 60 of the Tenancy Act could not be maintained.

9. The petitioner thereafter preferred Second Appeal No. 744 of 2019 before the Board of Revenue. The Board, by order dated 28.01.2020, dismissed the second appeal and affirmed the conclusion reached by the Additional Commissioner. The Board, while considering the second appeal, specifically examined the effect of the notification issued under Section 8 of the Act of 1956 and the statutory consequence flowing from Section 84 thereof. The Board took the view that, in view of the applicability of the Act of 1956, the provisions of the Tenancy Act were no longer applicable to the disputed land and consequently the proceedings instituted under Section 60 of the Tenancy Act could not be maintained.

10. Learned counsel for the petitioner has principally submitted that the authorities below have proceeded upon an erroneous assumption that Plot No. 1957 was covered by the Act of 1956. It is contended that the disputed land was never duly demarcated and that no notification under Section 8 of the Act of 1956 was issued in respect of the particular land in dispute. It has further been submitted that the revenue entry in favour of Awadh Bihari Lal was made without notice to the petitioner's predecessor and that the subsequent proceedings proceeded upon such erroneous entry.

11. Learned counsel for the petitioner has also disputed the correctness of the revenue records relied upon by the contesting respondents and alleged interpolation therein. It is submitted that the findings recorded by the authorities below with regard to the nature of the land and the revenue entries have not been properly considered by the Board of Revenue. The rejoinder affidavit reiterates the allegation that the respondents had interpolated the revenue record and disputes the evidentiary value of the documents relied upon by them.

12. Per contra, learned counsel for the contesting respondents submits that the writ petition essentially seeks reopening of factual issues which have already been considered by the competent revenue authorities over a considerable period of time. It is submitted that the historical Khataunis clearly demonstrate the recording of the name and possession of Awadh Bihari Lal and thereafter his successors. The respondents further contend that there is no satisfactory documentary evidence establishing the alleged adoption of Kishan Prasad by Sharda Prasad.

13. Learned counsel for the contesting respondents has further submitted that the Gazette notification dated 24.06.1961 is the material statutory notification by which the area in question was brought within the operation of the Act of 1956. He has also drawn the attention of the Court to the documentary material relied upon by the respondents in support of the applicability of the Act of 1956 and submits that the statutory consequences flowing from the notification are sufficient to

demonstrate that the proceedings under Section 60 of the Tenancy Act were not maintainable. He has also drawn the attention of the Court to U.A. Form 4 prepared under Rule 14 of the U.P. Urban Areas Zamindari Abolition Rules, 1956, filed as Annexure CA-20 to the counter affidavit, and submits that the said document specifically establishes that Plot No. 1957 was included in the area notified under Section 8 of the Act of 1956.

14. Having considered the rival submissions and perused the material placed on record, this Court finds that the controversy essentially concerns the applicability of the statutory regime governing the disputed land and the consequential maintainability of proceedings instituted by the petitioner under Section 60 of the Tenancy Act. The order dated 20.04.2018 passed by the Additional Commissioner and the order dated 28.01.2020 passed by the Board of Revenue, though ultimately leading to the same conclusion, have proceeded upon consideration of the matter from somewhat different perspectives.

15. The Additional Commissioner, while deciding Appeal No. 650 of 2015, considered the historical revenue material placed before him, including the entries in the Khatauni and the material relied upon by the contesting respondents in support of their possession and tenure rights. The Additional Commissioner also considered the material concerning the order dated 31.03.1984 whereby the name of the predecessor of the contesting respondents came to be recorded and the objections raised by the petitioner regarding the legality of the said proceedings. The order further takes note of the statutory provisions governing the disputed land and the effect of the urban Zamindari abolition regime.

16. The contention of the petitioner that the disputed land was non-ZA land and that the provisions of the Tenancy Act continued to apply was thus considered by the Additional Commissioner in the context of the material available before him. The Additional Commissioner examined the historical entries and the rival claims regarding possession and tenure

and came to the conclusion that the proceedings under Section 60 of the Tenancy Act could not be maintained.

17. The subsequent order of the Board of Revenue dated 28.01.2020, however, specifically examined the statutory consequence flowing from the notification dated 24.06.1961 and Section 84 of the Act of 1956. The Board took the view that once the Act of 1956 became applicable to the area in question, the provisions of the Tenancy Act ceased to apply and, consequently, proceedings under Section 60 could not be continued. The Board thus affirmed the ultimate conclusion of the Additional Commissioner, though its reasoning principally rested upon the statutory consequence arising from Section 84 of the Act of 1956.

18. The contention of the petitioner that Plot No. 1957 was non-ZA land and was consequently outside the purview of the Act of 1956, therefore, has to be considered in the light of the statutory notification and the material available before the authorities. The specific identification of Plot No. 1957 in U.A. Form 4 is of decisive significance. The petitioner has not been able to demonstrate before this Court any material which would establish, in a manner warranting interference in writ jurisdiction, that the disputed plot was excluded from the area notified under Section 8 of the Act of 1956. The allegation of interpolation in the revenue records, by itself, cannot displace the specific statutory record showing inclusion of the disputed plot.

19. Once the applicability of the Act of 1956 to the disputed land is upheld, the statutory consequences flowing from such applicability necessarily follow. The Act of 1956 became applicable to the concerned urban area with effect from the date prescribed in the notification, namely 01.07.1961. Consequently, the rights and liabilities in respect of the disputed land thereafter came to be governed by the statutory regime under the Act of 1956.

20. Section 84 of the Act of 1956 has an important bearing upon the controversy. In view of the applicability of the Act of 1956 to the disputed land, the provisions of the U.P. Tenancy Act, 1939 ceased to apply to such land. The petitioner, therefore, could not maintain proceedings under Section 60 of the Tenancy Act in respect of Plot No. 1957 after the land had been brought within the operation of the Act of 1956.

21. The order dated 21.07.2015 passed by the Sub-Divisional Magistrate, Moth, holding the proceedings under Section 60 of the Tenancy Act to be maintainable, therefore, proceeded upon an erroneous view of the legal status of the disputed land. The Additional Commissioner, by order dated 20.04.2018, upon consideration of the material before him, allowed the appeal and set aside the said order. The Board of Revenue, while deciding the second appeal, independently examined the statutory effect of Section 84 of the Act of 1956 and affirmed the conclusion that the proceedings under the Tenancy Act were not maintainable.

22. The petitioner's claim through Kishan Prasad and the assertion regarding his alleged adoption by Sharda Prasad also do not alter the position regarding maintainability of the proceedings under Section 60 of the Tenancy Act. Whether or not the petitioner ultimately establishes the succession or adoption pleaded by him is a matter which does not confer jurisdiction under the Tenancy Act over land to which that enactment was no longer applicable. Once the disputed plot is found to have been brought within the operation of the Act of 1956, proceedings under Section 60 of the Tenancy Act could not be maintained in respect thereof.

23. It is, therefore, not necessary for this Court to enter into any wider adjudication regarding the ultimate title of the parties or to record any final finding upon the petitioner's claim of adoption, except to the limited extent necessary for determining the maintainability of the proceedings under Section 60 of the Tenancy Act. The material relevant

to that question has been considered by the competent authorities and the petitioner has failed to demonstrate any jurisdictional infirmity in the conclusion reached by them.

24. In exercise of jurisdiction under Article 226 of the Constitution, this Court is concerned with the legality of the orders under challenge. Where the competent revenue authorities have considered the material available on record and applied the statutory provisions to the controversy, interference is not warranted merely because the petitioner seeks a different appreciation of the revenue material. In the present case, the Additional Commissioner considered the factual and revenue aspects of the controversy, while the Board of Revenue, in the second appeal, considered the statutory consequence flowing from the applicability of the Act of 1956.

25. For the reasons aforesaid, this Court finds that the conclusion recorded by the Additional Commissioner in his order dated 20.04.2018, allowing Appeal No. 650 of 2015 and setting aside the order dated 21.07.2015 passed by the Sub-Divisional Magistrate, Moth, does not suffer from any jurisdictional infirmity. The Board of Revenue, by its order dated 28.01.2020, rightly considered the effect of Section 84 of the Act of 1956 and concluded that the proceedings under Section 60 of the Tenancy Act were not maintainable.

26. The Board of Revenue also committed no error in dismissing the review application by order dated 29.06.2022. The grounds raised by the petitioner in review essentially sought reconsideration of the conclusions already reached by the Board in the second appeal. No error apparent on the face of the record or other ground warranting exercise of review jurisdiction has been demonstrated by the petitioner.

27. In view of the foregoing discussion, the writ petition lacks merit. The orders dated 20.04.2018, 28.01.2020 and 29.06.2022 do not suffer from any jurisdictional infirmity, perversity or manifest illegality

warranting interference by this Court under Article 226 of the Constitution.

28. Consequently, the writ petition is dismissed.

29. There shall be no order as to costs.

(Arun Kumar,J.)

September 18, 2026
Anil