



2026:AHC:191483-DB

Reserved on 09.07.2026
Delivered on 14.09.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD
WRIT - C No. - 27284 of 2015

Harish Chandra And 3 Others

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Harish Kumar Yadav, Ram Swaroop Singh, Shivakant Singh
Counsel for Respondent(s)	: Abhinava Krishna Srivastava, C.S.C., Ram Raj Singh

Court No. - 40

HON'BLE SARAL SRIVASTAVA, J.
HON'BLE SUDHANSHU CHAUHAN, J.

(Delivered by Hon'ble Sudhanshu Chauhan J.)

1. Heard learned counsel for the petitioner, learned Standing Counsel for the State respondents and Sri Abhinava Krishna Srivastava, learned counsel for the respondent no.4.
2. The present writ petition has been filed seeking a direction to the respondents to expunge the revenue entries in the name of the State in respect of the land in dispute and to record the same in the name of the petitioners and also to restrain the respondents from dispossessing the petitioners from the land in dispute.
3. The present controversy arises from proceedings under the Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter referred to as "the Act, 1976"). The land in dispute is comprised in Plot No. 81, having an area of 0.068 hectare, Plot No. 83, having an area of 0.103 hectare, and Plot No. 80, having an area of 0.0114 hectare, situated in Village Umarpur Neva, Tehsil Chayal, District Allahabad.
4. The facts involved in the present writ petition are that Sukh Dev was the original landholder of the land in dispute and had filed a ceiling return under Section 6(1), registered as Ceiling Case No. 4341 of 1976 (State Vs. Sukh Dev). Subsequently, notice under Section 8(3) was issued on

05.09.1977 and, consequently, by means of the order dated 06.10.1978 passed under Section 8(4) of the Act, 1976, 1725.78 hectares of land was declared as excess vacant land. Subsequently, notice under Section 9 and notifications under Sections 10(1) and 10(3) were published in the State Gazette. Notice under Section 10(5) was issued on 28.08.1990 and served upon Phool Chandra, petitioner no. 3. Thereafter, the land was recorded in the name of the State in the revenue records on 05.09.1995. Notice under Section 11(8) in respect of Sandeh Dhanrashi/compensation was issued on 30.11.1996 and objections dated 26.12.1996 were filed by the landholders in response to the same, which were rejected by the competent authority vide order dated 15.03.1997.

5. It is the contention of learned counsel for the petitioners that after the demise of their father, Sukh Dev, the original landholder, the petitioners are in possession of the land in dispute. Further, the petitioners at no point of time voluntarily surrendered the land in pursuance of the notice under Section 10(5). Besides, no proceedings under Section 10(6) had ever taken place. Hence, the petitioners, being in possession of the land in dispute, are entitled to the benefit of Section 3 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999 (hereinafter referred to as “the Repeal Act, 1999”). Further, the petitioners have repeatedly approached the District Magistrate, Allahabad-respondent no. 2, for expunging the name of the State from the revenue records, but the same has been of no avail, and hence the petitioners have been constrained to approach this Court. It is also contended that the original landholder, Sukh Dev, had passed away prior to the issuance of notice under Section 10(5) and, as such, the same is a nullity in the eyes of law.

6. Per contra, it is contended on behalf of the State-respondents that the proceedings under the Act, 1976 stood concluded and possession of the land in dispute was transferred to the representative of the District Magistrate on 14.11.1990. Further, the land in dispute was recorded in the name of the State in the revenue records on 05.09.1995. Besides, after taking over possession of the land in dispute, notice under Section 11(8) determining the Sandeh Dhanrashi/compensation was also issued on 30.11.1996 and the petitioners had filed their objections dated 26.12.1996, which were decided by the competent authority on 15.03.1997.

7. Under these circumstances, it is stated that the proceedings under the Act, 1976 stood concluded much prior to the enforcement of the Repeal Act, 1999 and the possession of the land in dispute stood transferred to the State. Further the petitioners are very much aware about the said fact but had never objected to the same.

8. It is also contended that the present writ petition has been filed after a lapse of about 37 years from the date when the land was declared vacant and 25 years from the date of taking over physical possession of the land and, as such, is liable to be dismissed solely on the ground of delay. Respondent no. 4-Authority has supported the stand so taken by the State-respondents.

9. We have perused the records of the case and find that the petitioners themselves admit that the notice dated 28.08.1990 under Section 10(5) was served upon Phool Chandra-petitioner no. 3, son of Sukh Dev, on 14.11.1990. In this regard, the contention of the petitioners that service of notice on petitioner no. 3 would not amount to effective service under Section 10(5), as the original landholder, Sukh Dev, had passed away, is also erroneous, in view of the fact that the petitioners themselves admit that they were in possession of the land in dispute after the demise of Sukh Dev. In this regard, the provisions of Section 10(5) of the Act, 1976 are relevant and read as under:-

“Section 10(5) of the Urban Land (Ceiling and Regulation) Act, 1976.

*(5) Where any vacant land is vested in the State Government under sub-section (3), the competent authority may, by notice in writing, order **any person who may be in possession of it** to surrender or deliver possession thereof to the State Government or to any person duly authorised by the State Government in this behalf within thirty days of the service of the notice.”*

10. Thus, the notice issued under Section 10(5) is to be served upon any person who may be in possession of the land in dispute and, in the present case, the petitioners were admittedly in possession of the land in dispute at the time of issuance of notice under Section 10(5).

11. Further, it is the specific case of the respondents that possession of the

land in dispute was taken over on 14.11.1990 after service of notice upon petitioner no. 3. In this regard, the contents of paragraph no. 3 of the counter affidavit of the State are relevant and read as under:-

“3. यह कि नगर भूमि (अधिकतम सीमा एवं विनियमन) अधिनियम, 1976 की धारा 6 (1) के अन्तर्गत भू-धारक द्वारा विवरण पत्र संख्या-4341/1976 सरकार बनाम सुखदेव, निवासी कन्धईपुर, तहसील सदर, इलाहाबाद दाखिल की गयी थी। जिस पर अधिनियम के प्राविधानानुसार धारा 8 (4) के अन्तर्गत दिनांक 06.10.1978 को आदेश पारित करते हुये भू-धारक को 1735.78 वर्ग मीटर भूमि सीमाधिक्य रिक्त घोषित की गयी थी। तत्पश्चात् अधिनियम की धारा-09, 10(1), 10 (3) की कार्यवाही सम्पादित की गयी। इस प्रकार अधिनियम की धारा-10 (3) के प्रकाशन के दिनांक 05.02.1990 से प्रश्नगत प्रकरण की सीमाधिक्य रिक्त भूमि समस्त भारों से मुक्त होकर राज्य सरकार में पूर्णरूप से निहित हो गयी। तदोपरान्त दिनांक 28.08.1990 को धारा 10(5) के अन्तर्गत कब्जा सौंपने विषयक नोटिस निर्गत की गयी। सीमाधिक्य रिक्त भूमि का कब्जा सक्षम प्राधिकारी के प्रतिनिधि द्वारा जिलाधिकारी के प्रतिनिधि को दिनांक 14.11.1990 को हस्तांतरित किया गया। राजस्व अभिलेख खतौनी 1404 फसली में राज्य सरकार सीलिंग का नाम दर्ज किया गया। अधिनियम की धारा 11(8) की नोटिस दिनांक 30.11.1996 को निर्गत की गयी, जिसके विरुद्ध भू-धारक द्वारा दिनांक 26.12.1996 को आपत्ति दाखिल की गयी। तत्कालीन सक्षम प्राधिकारी द्वारा दिनांक 15.03.1997 को आपत्ति निरस्त कर दिया गया।”

12. The petitioners, in response thereto, in paragraph no. 5 of their rejoinder affidavit have stated as under:-

“5. That the contents of para no.3 of the Counter-Affidavit filed on behalf of respondent nos.2 and 3 are not correct, as stated, hence are denied, because the Case No.4341/1976 (State of U.P. Versus Sukhdev) was initiated in the name of sole tenure holder (Sukhdev) father of petitioners, but during further proceedings of aforesaid Case No.4341/1976 u/s 10(3) and 10(5) of Urban Land (Ceiling and Regulation) Act 1976, sole tenure holder (Sukhdev) died and he was no more which proves that more proceedings of the aforesaid Case No.4341/1976 were proceeded against the dead person then the proceedings of the Case No.4341/1976 (State Vs. Sukhdev) will be nullity.”

13. Thus, there is no denial regarding the handing over of possession of the land on 14.11.1990 and the proceedings in respect of determination of Sandeh Dhanrashi/compensation under Section 11 of the Act thereafter.

14. It is relevant to point out here that according to the petitioners the original landholder, Sukhdev passed away on 15.07.1990, after the publication of notice under Section 10(3) of the Act, 1976. Thereafter petitioner no.3 was served upon the notice under Section 10(5) dated 28.08.1990 besides the petitioners also filed objections dated 26.12.1996 to the determination of Sandeh Dhanrashi under Section 11(8). However, the petitioners never raised objections to the proceedings under the Act, 1976 regarding the proceedings being continued against a dead person Pyare Lal. Hence, raising the plea regarding the death of Sukh Dev about

20 years thereafter by means of the present writ petition cannot be entertained.

15. The petitioners themselves admit the fact that entries in the revenue records in respect of the land in dispute were made on 05.09.1995, the petitioners having relied upon the revenue records in the writ petition. Thus, admittedly, the notice under Section 10(5) was served upon petitioner no. 3 on 14.11.1990 and the revenue entries were mutated in the name of the State on 05.09.1995. Therefore, it cannot be said that the petitioners were not aware of the proceedings under the Act, 1976.

16. Under these circumstances, there is no valid reason to doubt the fact that possession of the land in dispute stood transferred to the respondents much prior to the enforcement of the Repeal Act, 1999. Further, the petitioners have failed to produce any evidence in support of their contention that they continued to remain in possession of the land in dispute.

17. Furthermore, the present writ petition has been filed after a lapse of about 25 years from the date of service of notice under Section 10(5) upon the petitioners on 14.11.1990. Hence, even otherwise, the present writ petition is liable to be dismissed on the ground of delay in view of the law laid down by the Supreme Court in *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.

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

September 14, 2026

Gaurav