



2026:AHC:191412-DB

Reserved On: 20.08.2026

Delivered On: 14.09.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 36451 of 2019

Vinay Kumar Nishad

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Anil Kumar Yadav, Raj Karan Yadav, Sarveshwari Prasad, Yadvendra Kumar Yadav
Counsel for Respondent(s)	: Abhinava Krishna Srivastava, C.S.C., Devi Prasad Mishra, Harsh Vardhan Gupta

Court No. - 40

HON'BLE SARAL SRIVASTAVA, J.

HON'BLE SUDHANSHU CHAUHAN, J.

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

1. Heard Shri Raj Karan Yadav, learned counsel for the petitioner, Shri Abhinava Krishna Srivastava, learned counsel for respondent no.4 and learned Standing Counsel for State respondents.
2. The present petition has been filed, seeking a direction to the respondents to abate the proceedings of Case No. 3977/1976(State vs Ram Sharan)in respect of the land in dispute and arising out of proceedings under the Urban Land (Ceiling and Regulation) Act, 1976. Further, a direction has been sought to the respondents to correct the entries in the revenue records and to record the same in the name of the petitioner, and also to restrain the respondents from interfering in the peaceful possession of the petitioner over the land in dispute.
3. The present proceedings arise under the Urban Land(Ceiling and Regulation) Act, 1976, (herein after referred to as ,"the Act 1976") . The land in dispute is 1,403.22 sq. m. of land comprised in Plot No. 223/1, village Chaka, district Allahabad, now Prayagraj.
4. The facts of the case are that the father of the petitioner, Ram Sharan and the mother of petitioner, Meera Devi, had filed a ceiling

return under Section 6(1), registered as Case No. 3977/1976. Subsequently, notice under Section 8(3) was issued on 25.09.1979. However, as no objections were filed by the original land holder, an order under Section 8(4) was passed on 08.01.1980, declaring the land in dispute as excess vacant. The same was followed by notice under Section 9. The notification under Section 10(1) and Section 10(3) of the Act, 1976, was published in the State Gazette on 28.10.1989 and 22.02.1992 respectively. Thereafter, notice under Section 10(5) was issued on 30.12.1992. Ultimately in pursuance of the government order dated 11.12.1996, the land in dispute was transferred to Prayagraj Development Authority-respondent no.4.

5. It is contended on behalf of the petitioner that no notice under Section 8(3) was served upon the original landholders, and the notice under Section 10(5) was also not served upon the landholders, as would be evident from the report of the chain man/process server. It is mandatory for the respondents to have communicated the order passed under Section 8(4) to the predecessors of the petitioner, but the same too was not done. As a consequence, the entire proceedings under the Act, 1976 are vitiated. No proceedings had taken place under Section 10(6) of the Act, 1976. Hence, the possession of the land in dispute was never transferred to the respondents- State under the provisions of the Act, 1976. The petitioner being in possession of the land in dispute is entitled to remain in possession thereof by virtue of the provisions of the Urban Land(Ceiling and Regulation) Repeal Act, 1999 (hereinafter referred to as , "the Repeal Act, 1999 "). The petitioner, being the successor of the original landholders, is in valid possession of the land in dispute, hence, the entries in the revenue records ought to be corrected in the name of the petitioner and the proceedings under the Act, 1976 be abated in view of Section 4 of the Repeal Act, 1999.

6. Per contra, it is contended on behalf of the respondents that the notice under Section 8(3) was duly served upon the original landholder on 07.10.1979. However, the original landholder willfully had not filed any objections to the same, in this regard, a copy of the service report has duly been placed before this Court. Besides, notice

under Section 10(5) was issued on 30.12.1992 for voluntary handing over of the possession of the land, and the same was duly served on the original land holder. Subsequently, the land in dispute was transferred to the respondent No. 4-authority and is presently in possession of the respondent no.4 Thus, the proceedings under the Act, 1976 stood duly concluded much prior to the coming into force of the Repeal Act, 1999. Further, the present controversy is covered by the law laid down by the Apex Court in the case of *State of Assam v. Bhaskar Jyoti Sharma*, (2015) 5, SCC 321 and the writ petition is liable to be dismissed.

7. We have perused the records of the case as well as the original record summoned from the office of the Competent Authority-respondent No. 3. The perusal of the record reveals that it is the father of the petitioner, Ram Sharan who along with Smt. Meera Devi, had filed the return under Section 6(1). Subsequently, the notice under Section 8(3) was served upon Ram Sharan on 07.10.1979, and as no objections were filed, the order under Section 8(4) was passed on 08.01.1980. Thereafter, on completion of proceedings under the Act, 1976, till the stage of Section 10(3), a notice under Section 10(5) dated 28.10.1989 was prepared and was issued on 30.12.1992. However, the service report dated 06.02.1993 of the chain man/ process server reveals that he could not find the land holders for service of notice, and as such, the notice under Section 10(5) remained unserved. The records further reveal that thereafter no effort was made by the respondents for service of the notice under Section 10(5) upon the land holders. Further, there is nothing on record to show that the possession of the land in dispute stood transferred to the respondents. Besides no proceedings under Section 10 (6) ever took place.

8. It is pertinent to mention here that even in the pleadings of the respondents, there is no mention of any date on which notice under Section 10 (5) was served upon the petitioner. The records and pleadings further reveal that no proceedings under Section 10(6) of the Act, 1976, had ever taken place. Thus, the undisputed picture that emerges is that, though a notice under Section 10(5) was issued on

30.12.1992, it remained unserved upon the land holders.

9. In this regard, it is duly settled that the service of notice under Section 10(5) or Section 10(6) of the Act, 1976, as the case maybe upon the landholder is mandatory. Further, the burden lies upon the State to prove that the possession of the land involved in the proceedings under the Act 1976 stood transferred to the State, be it by means of voluntary handing over of possession, under Section 10(5) or forceful possession, under Section 10(6) of the Act, 1976. In this regard, our view is further fortified by the law laid down by the Apex Court in the case of **State of UP vs Hari Ram, (2013) 4 SCC 280** , **AP Electrical Equipment Corporation vs Tehsildar and others, 2025 SCC Online SC 447** and **Dalsukhbhai Bachubhai Satasia and others vs State of Gujarat and others, AIR 2026 SC 475** and we are of the view that the present controversy is squarely covered by the law laid down by the Apex Court in the above said cases.

10. As far as the law laid down by the Apex Court in the case of **State of Assam vs Bhaskar Jyoti Sharma, (2015) 5 SCC 321** relied upon by the respondents is concerned ,we are afraid that the said judgment of the Apex Court would not be applicable in the present case. As in the case so relied upon by the respondents, the possession had been taken without resorting to measures under Section 10(5) of the Act, 1976, and there was a delay in challenging the dispossession of the land holders, however, in the present case, there is nothing on record to demonstrate that the possession of the land in dispute was handed over to the respondents - State.Hence, the facts of the present case are totally different from those in the case of Bhaskar Jyoti Sharma (supra).

11. Under the circumstances, the present petition is allowed, and the proceedings of Case No. 3977/1976 (State vs. Ram Sharan) are abated. Further, the respondents are directed to expunge the name of the State from the revenue records of the land in dispute and to restore the same in the name of petitioner and other land holders, if any, in due accordance with law, within a period of three months from the date of production of a certified copy of this order .

12. The office is directed to return the original records received from the office of Competent Authority, Urban Ceiling, Prayagraj to the office of Learned Chief Standing Counsel forthwith.

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

September 14, 2026

Nadeem