2026:AHC:209568

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 27813 of 2026

Afaque Ahmad And Another

.....Petitioner(s)

Versus

State Of Up And 3 Others

.....Respondent(s)

Counsel for Petitioner(s) : Kamla Kant Mishra, Varun Mishra
Counsel for Respondent(s) : Bhupendra Kumar Tripathi, C.S.C., Muqeem Ahmad

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Court No. - 37

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Mr. Kamla Kant Mishra, learned counsel for the petitioners, Mr. Muqeem Ahmad, learned counsel for respondent no.4, Mr. Jitendra Narain Rai, learned Additional Chief Standing Counsel for the State and Mr. Bhupendra Kumar Tripathi, learned counsel for the respondent- Gaon Sabha.

2. The instant petition has been filed for the following reliefs:

"a. issue a writ, order or direction in the nature of mandamus directing the respondents not to interfere in petitioners' peaceful possession over new Araji Nos.62/0.210 hectare, 63/1.684 hectare acre and Araji No.64/1.461 hectare, situated in Mauza-Bakhtiyarpur, Pargana-Anguli, Tehsil-Shahganj, District Jaunpur in pursuance of Suit No.T202514360116319 (Ahsanul Haq Vs. Afaque Ahmad and others), Under Section 144 of U.P. Revenue Code, 2006;

b. issue a writ order or direction in the nature of certiorari to quash further proceedings of Suit No.T202514360116319 (Ahsanul Haq Vs. Afaque Ahmad and others), Under Section 144 of U.P. Revenue Code, 2006 pending in the court of Sub Divisional Officer (Judicial), Shahganj, District Jaunpur;"

3. Learned counsel for the petitioners submitted that the suit under Section 144 of U.P. Revenue Code, 2006 has been filed by respondent no.4 impleading the petitioners as defendants. He further submitted that the filing of suit by respondent no.4 is totally abuse of process of law as no objection was raised in last two consolidation operations before the

consolidation authorities. He further submitted that the proceeding of suit initiated by respondent no.4 should be quashed in the facts and circumstances of the case.

4. On the other hand, learned counsel for respondent no.4 submitted that one Writ-C No.38591 of 2025 filed by one Gausia who was one of the defendant of the aforementioned suit was disposed of with direction that the proceeding of suit shall be decided considering the objection of the petitioners in accordance with law. He further submitted that the instant petition cannot be entertained as the suit filed by respondent no.4 is pending before the trial Court where the petitioner has full opportunity to raise objection in support of their case.

5. I have considered the argument advanced by learned counsel for the petitioners, learned Standing Counsel for the State and perused the records.

6. There is no dispute about the fact that the suit under Section 144 of U.P. Revenue Code, 2006 filed by respondent no.4 impleading the petitioners as defendants is pending before respondent no.2/ trial Court.

7. In view of the pendency of the suit under Section 144 of U.P. Revenue Code, 2006 before the trial Court no ground is made out for quashing the proceeding of pending suit rather petitioners should participate in the proceeding and get the issue framed regarding bar of Section 49 of U.P.C.H. Act, which will be decided along with other issues in accordance with law. So far as the cause of action for filing instant suit is concerned, the petitioner can file proper application in the same suit rather writ petition before this Court.

8. The writ petition is ***dismissed.***

(Chandra Kumar Rai,J.)

October 7, 2026
Rameez

Digitally signed by :-
RAMEEZ AHMED
High Court of Judicature at Allahabad