HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 34891 of 2026

Itvari Lal

.....Petitioner(s)

Versus

State Of U.P. And 11 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Kailash Pati Singh Yadav, Manoj Kumar Yadav
Counsel for Respondent(s)	:	C.S.C., Krishna Kant Singh

Court No. - 4

HON'BLE KSHITIJ SHAILENDRA, J.

1. Heard learned counsel for the petitioner, learned Standing Counsel for the respondents no. 1 and 2 and Shri Krishna Kant Singh, learned counsel for the respondent no. 12-Gaon Sabha.

2. On the complaint moved by the petitioner in the year 2022, proceedings under Section 128 of U.P. Revenue Code, 2006 were initiated against the private respondents. Allegation levelled in the complaint was that the allotment made in favour of the respondents in 1988 was unlawful. The said complaint was rejected by the Additional District Magistrate (Finance and Revenue), Etah by order dated 10.07.2024 primarily on the ground of limitation. The said order was upheld in revision, which has been dismissed by the Commissioner on 05.08.2026.

3. Learned counsel for the petitioner submits that the petitioner has been in possession over the property in dispute and it was only on 03.08.2022, the respondents came on spot and threatened the petitioner alleging that they had got an allotment in their favour and immediately thereafter, the complaint was moved which was not beyond time and, therefore, both the courts have erred in dismissing the complaint and the revision.

4. Learned Standing Counsel as well as learned counsel for the Gaon Sabha submit that five years limitation period is prescribed under Section 128 (1-A) and the period starts to run from the date of allotment and once, admittedly, the allotment was made in 1988, the complaint filed after 34 years has been rightly dismissed and, therefore, no interference is

warranted in the orders.

5. Having heard learned counsel for the parties and having perused the record, I find that in para-2 of the complaint, the petitioner admitted that the land belonged to Gaon Sabha. Surprisingly, in para-4, a plea was raised that the petitioner is continuing in possession over the land. Based upon the said plea, allotment made in favour of the respondents in 1988 was sought to be cancelled.

6. The first authority has, after hearing the parties, arrived at a conclusion that the petitioner and husband of opposite party no. 1, namely, Kusma Devi were real brothers and Kusma Devi died much before institution of the proceedings. The authorities have also found that the allotment having been made in 1988, the proceedings initiated after 34 years were barred by limitation and even on merits also, based upon the report submitted by the Tehsildar, it has been found that the allotment was made in accordance with law. The plea raised regarding lawful proceedings having been undertaken qua the allotment has also been discussed by both the authorities.

7. In the facts and circumstances of the case where parties were related to each other and the petitioner has also utterly failed to indicate as to in what capacity he was in possession over the property, coupled with the fact that it has also been noticed that in favour of the petitioner also some allotment was made, it cannot be accepted that it was only in 2022 the petitioner came to know that the allotment was made when parties were closely related.

8. Apart from the above, the language used in sub-section (1-A) of Section 128 is explicit in nature and does not leave any room for interpretation and it is not even the plea based upon alleged fraud wherein the complainant can take a plea against the bar of limitation which also depends on the facts and circumstances of every case.

9. Apart from above, once allotment was made in 1988, the respondents have become bhumidhar by operation of law and for this reason also, this Court does not find any merit in the challenge laid at the instance of the petitioner.

10. The writ petition has no substance, the same is, therefore, **dismissed**.

(Kshitij Shailendra,J.)

October 23, 2026
AKShukla/-

Digitally signed by :-
ANIL KUMAR SHUKLA
High Court of Judicature at Allahabad