2026:AHC:208027

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 37903 of 2026

Ram Nihor Giri

.....Petitioner(s)

Versus

State Of Uttar Pradesh And 6 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Adwitiya Prakash Tiwari, Anshuman Singh, Vinay Kumar Dubey
Counsel for Respondent(s)	:	C.S.C., Rameshwar Prasad Shukla

Court No. - 37

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Mr. Anshuman Singh, learned counsel for the petitioner, Mr. Indrasen Singh Tomar, learned Additional Chief Standing Counsel for the State-respondents and Mr. Rameshwar Prasad Shukla, learned counsel for the Gaon Sabha.

2. Instruction dated 3.10.2026 sent by the Tahsildar, Budhanpur, Azamgarh is taken on record.

3. Learned Additional Chief Standing Counsel for the State shall serve the copy of the instruction to learned counsel for the petitioner during course of the day.

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

"I.issue a writ, order or direction in the nature of Certiorari quashing the impugned order dated 30.04.2026 passed by the Tehsildar, Budhanpur, District Azamgarh (Respondent No. 5) (Annexure No.10 to this writ petition).

II. issue a writ, order or direction in the nature of Certiorari quashing setting aside the Recovery Certificate dated 24.08.2026 (Annexure No. 12 to this writ petition) and the consequential auction notice dated 07.09.2026 fixing 07.10.2026 for auction (Annexure No. 13 to this writ petition) of the Petitioner's property.

III. pending hearing and final disposal of the present writ petition, stay the operation, execution implementation of the impugned order 30.04.2026, the Recovery Certificate dated 24.08.2026, and the auction notice dated 07.09.2026 (fixing 07.10.2026), and

restrain the respondents from….."

5. This Court vide order dated 21.9.2026 directed the learned Standing Counsel to obtain instruction in the matter.

6. Learned counsel for the petitioner submitted that the order imposing damages against the petitioner is wholly illegal, as such, the same should be set aside. He further submitted that in pursuance of the order dated 30.4.2026 passed by Tahsildar recovery certificate dated 24.8.2026 as well as auction notice has been issued, as such, petitioner is entitled for interim protection against the order dated 30.4.2026 passed by Tahsildar. He further submitted that the appeal filed by petitioner, under Section 67 (5) of U.P. Revenue Code, 2006 is pending before respondent no.3/ Additional District Magistrate (Finance & Revenue), Azamgarh. He further submitted that the appropriate direction be issued for expeditious disposal of pending appeal and till the pendency of appeal the effect and operation of the impugned order dated 30.4.2026 should be stayed. He further submitted that initially Tahsildar has passed the order for eviction and damages dated 11.6.2025 against the petitioner which has been challenged in appeal under Section 67 (5) of U.P. Revenue Code, 2006, which is still pending as Computerized Case No.D202515060003187 and during pendency of appeal on the restoration application filed by respondent no.7, the earlier order for eviction and damages has been recalled and another order dated 30.4.2026 has been passed for eviction and damages against the petitioner, which is wholly illegal, as such, petitioner is entitled for interim relief in the matter.

7. On the other hand, learned Additional Chief Standing Counsel for the State and learned counsel for the Gaon Sabha submitted that the appeal under Section 67 (5) of U.P. Revenue Code, 2006 filed by petitioner is time barred, as such, no interim protection can be granted in the time barred proceeding. They further submitted that no interference is required against the order passed by the Tahsildar under Section 67 of U.P. Revenue Code, 2006.

8. I have considered the argument advanced by learned counsel for the petitioner, learned Additional Chief Standing Counsel for the State,

learned counsel for the Gaon Sabha and perused the records.

9. There is no dispute about the fact that the order for eviction and damages has been passed by Tahsildar on 30.4.2026 against the petitioner and appeal along with the prayer for condonation of delay under Section 67 (5) of U.P. Revenue Code, 2006 filed on behalf of petitioner is pending before respondent no.3 / Additional District Magistrate.

10. Considering the facts and circumstances of the case, the pending appeals should be decided considering the delay condonation matter first expeditiously.

11. Considering the entire facts and circumstances of the case, the instant petition is finally ***disposed of*** directing respondent no.3 / Additional District Magistrate (Finance & Revenue), Azamgarh to decide the aforementioned appeal no.3187 of 2025 (Computerized Case No.D202515060003187) & appeal no.2838 of 2026 (Computerized Case No.D202615060002838), under Section 67 (5) of U.P. Revenue Code, 2006 considering the delay condonation matter first affording proper opportunity of hearing to the parties, expeditiously preferably within a period of three months from the date of production of certified copy of this order.

(Chandra Kumar Rai,J.)

October 5, 2026
Rameez

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