HIGH COURT OF JUDICATURE AT ALLAHABAD

PUBLIC INTEREST LITIGATION (PIL) No. - 2524 of 2026

Mangal Sen

.....Petitioner(s)

Versus

State Of U.P. And 6 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Girraj Singh, Sanjay Kumar
Counsel for Respondent(s)	:	C.S.C., Sher Bahadur Singh

Court No. - 51

HON'BLE ARUN KUMAR, J.

1. Heard Sri Girraj Singh, learned counsel for the petitioner, learned Standing Counsel for the respondent State and Sri Sher Bahadur Singh, learned counsel for the respondent no.5.

2. The present writ petition has been filed seeking a direction to the respondent nos.2 to 4 to restrain the respondent nos.6 and 7 for illegal construction upon the traditional public road situated at Village Nara Faridapur, Tehsil Meerganj, District Bareilly.

3. The averments made in the writ petition shows that the petitioner has alleged encroachment by respondent nos.6 and 7 over public pathway existing in village abadi.

4. Today when the case was taken up, learned Standing Counsel has placed before the Court the instructions sent by Deputy District Magistrate, Tehsil Meerganj, District Bareilly, which is taken on record.

5. Perusal of the aforesaid instructions shows that the houses of the petitioner and the respondent nos.6 and 7 exist in the village abadi over Plot No.242 area 3.262 hectare. Their houses are adjacent to each other. The respondent no.6 is carrying out redevelopment work in his house and is opening a door on the western side facing the house of the petitioner, which is the reason for dispute between them. It has further been stated that the pathway existing in the village abadi is free from encroachment and no offending construction was found over it, as alleged in the writ petition. The name of respondent no.6 also finds mention in the Gharauni

prepared in respect of Plot No.262 in which a pathway is mentioned on the western side. The said pathway is being used by the villagers without any obstruction.

6. In view of the instructions placed before the Court, it is evident that the pathway existing in the village abadi is free from encroachment. The construction raised by respondent no.6 is a new construction on the pathway is not established by any material evidence on record. Moreover, in old village abadi, there exists no documentary evidence to establish existence of pathway. The existence of pathway can be established only by user, which can be determined only by appreciating oral evidence, which is beyond the scope of present public interest litigation.

7. In the aforesaid circumstances, the present writ petition is disposed of with liberty to the petitioner to avail the remedy available to him under common law for establishing the existence of pathway and the rights of the villagers over it.

(Arun Kumar,J.)

October 23, 2026
Anil

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