

# Rakesh Pandey vs State Of Up And 3 Others on 28 March, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:44154

Court No. - 35

Case :- WRIT - C No. - 38880 of 2024

Petitioner :- Rakesh Pandey

Respondent :- State Of Up And 3 Others

Counsel for Petitioner :- Gyan Prakash Tiwari,Kamlesh Tiwari

Counsel for Respondent :- C.S.C.

Hon'ble Manish Kumar Nigam,J.

1. Heard learned Standing Counsel for the State-respondents and perused the record.

2. This writ petition has been filed for following reliefs:-

"i) Issue a writ, order or direction in nature of mandamus commanding the respondent no. 2 to provide possession to the petitioner of demarcated the gata no. 63, area 1011.89 square meter situated at village Domaree, Pergana Ralhupur, Tehsil Sadar District Varanasi in pursuance to the order dated 20.12.2023 passed by respondent no. 2 in case no. 2378 of 2022, Computerized No. D202214700002378 (Rakesh Pandey vs. State) U/s 24 U.P. Land Revenue Code, 2006, within stipulated period fix by his Hon'ble Court.

(ii) Issue a writ, order or direction in nature of mandamus commanding the respondent no. 2 to deliver the possession to the petitioner over the above plot and area. And demolish illegal construction made by respondent no. 3 and 4."

3. From perusal of writ petition and the annexures annexed thereto, it is apparent that an order dated 20.12.2023 has been passed under Section 24 of the U.P. Revenue Code, 2006, but the same has not been given effect to.

4. Learned Standing Counsel has raised a preliminary objection that view of the judgment of Division Bench of this Court in case of Manbhavati Vs. State of U.P. and others reported in 2020 1 AWC 789A and Writ C No. 7863 of 2018 (Brij Bhushan Rai v. State of U.P. and 6 others) the writ petition is not maintainable for execution of orders passed by the Revenue Court. It has been further contended by learned Standing Counsel that in view of provisions of paragraph No. 460 of the U.P. Revenue Court Manual, the petitioner has remedy for getting the order implemented. For ready reference, paragraph No. 460 of the U.P. Revenue Court Manual is quoted as under:-

"460. Execution of decree and order- (1)The decree or order passed under the Code or the Rules framed under the Code shall, mutatis mutandis, be executed in accordance with the provisions of Chapter V. (2) The Assistant Collector/Tahsildar passing the order for eviction or recovery of any amount of damages or compensation under the provisions of Section 67 of the Code shall get the order executed and in execution of the order he shall, mutatis mutandis, follow the procedure laid down in paragraphs 137 and 138."

5. In view of the same, I am not inclined to interfere in the matter.

6. Accordingly, the petition is disposed of with liberty to the petitioner to pursue the remedy as available to her under the U.P. Revenue Court Manual.

Order Date :- 28.3.2025 Nitika Sri. (Manish Kumar Nigam,J.)