

Manjoor Ahamad vs State Of Up And 4 Others on 28 March, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:44155

Court No. - 35

Case :- WRIT - C No. - 39130 of 2024

Petitioner :- Manjoor Ahamad

Respondent :- State Of Up And 4 Others

Counsel for Petitioner :- Devi Prasad Singh, Syed Sarfaraz

Counsel for Respondent :- Bhupendra Kumar Tripathi, 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:-

"A) Issue a writ order or direction in the nature of an ad-interim mandamus directing the respondents to ensure the compliance and implementation of the order dated 15.03.2018 passed by the respondent no. 3 in Case No. T20161470032492 of 2016 (Report Lekhpal Vs. Jahangeer) U/s 67 of U.P. Revenue Code as well as the order dated 24.09.2024 passed by respondent no. 3 in Case no. 3774/2024 (Jahangeer Vs. State) under section 67K of U.P. Revenue Code, 2006.

B) Issue a writ order or direction in the nature of mandamus directing the respondent authority to take the necessary and legal action and remove the illegal encroachment and construction of the private respondent no. 5 over the Gram Sabha/Public Utility Land of Arazi no. 405 admeasuring area 0.065 hectare situated

at village Veerbhanpur, Pargana Kaswar, Tehsil Raja Talab, District Varanasi. "

3. From perusal of writ petition and the annexures annexed thereto, it is apparent that the orders dated 15.03.2018 and 24.09.2024 have been passed under Section 67 & Section 67-Ka of the U.P. Revenue Code, 2006, respectively but the same have 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.)