

Binesh Kumar vs State Of U.P. And 5 Others on 28 March, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:44126

Court No. - 35

Case :- WRIT - C No. - 9335 of 2025

Petitioner :- Binesh Kumar

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Dheeraj Singh, Navnath Pandey

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 petition has been filed for the following relief:

"Issue writ, order, or direction in the nature of mandamus directing the respondent no.3 & 4 to take appropriate action to remove the illegal encroachment of respondent no.6 over the Kabristan land in compliance of order dated 27.7.2024 passed by the Assistant Collector/Tehsildar (Judicial), Dadri, Gautam Budh Nagar."

3. Learned Standing Counsel has raised a preliminary objection that in view of the judgment of Division Bench of this Court in case of Manbhavati v. 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 Revenue Court. It has been further submitted by learned Standing Counsel that in view of provisions of paragraph no. 460 of the U.P. Revenue Court Manual, the petitioners have 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."

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

5. Accordingly, the petition is disposed of with liberty to the petitioners to pursue the remedy as available to them under the U.P. Revenue Court Manual.

Order Date :- 28.3.2025/Ved Prakash (Manish Kumar Nigam,J.)