**IN THE HON’BLE HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW**

CIVIL MISC. WRIT PETITION NO………………(WRIT-C) of 2024

Sweety Tripathi and Ors ….Petitioners

Versus

Union of India and Ors. ….Opposite Parties

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**Lucknow (ARPAN PRAKASH SRIVASTAVA)**

**Dated:** Advocate Counsel for Petitioner

Mobile – 8400231200

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**LIST OF DATES AND EVENTS/SYNOPSIS**

|  |  |  |
| --- | --- | --- |
| S.No | Date | Particulars |
| 1. | 1958 | The owner of the said premises namely Late Harish Chand Anand purchased the said property which is situated aa Bangla No. 25, Guptarghat, Cantt. Faizabad, U.P from Maharani Vidhyavati |
| 2. | 1. till date | since then, Late Harish Chand Anand and his legal heirs are the rightful owner of the said property |
| 3. |  | The petitioner no. 1 and 2 are tenant in the said property since last 30 years and are residing over there peacefully |
| 4. | 21.02.1972 | The O.P No. 1, vide notice dated 21st February 1972, resumed the said land and structure thereon and served the notice to the petitioner no. 3 to vacate the said premises |
| 5. | 1972 | the petitioner no. 3 preferred a writ petition before Hon’ble High Court of Judicature at Allahabad which was registered as Civil Misc. writ Petition No. 1757 of 1972. The Hon’ble High Court allowed the Writ petition and quashed the notice dated 21.02.1972 passed by O.P No. 1. |
| 6. | 1976 | The O.P No. 1 the preferred a Special Appeal against the judgement of the Hon’ble Single Judge which was registered as Special Appeal No. 36 of 1976. The division bench of the Hon’ble Court dismissed the said appeal and confirmed the judgement passed by Hon’ble Single Judge. |
| 7. | 1979 | The O.P No. 1, then preferred the Special Leave Petition before the Hon’ble Supreme Court which was registered as Civil Appeal No. 1868 of 1979 (Union of India and Ors vs. Sri Harish Chand Anand through his Legal heirs. The Hon’ble Apex court vide order dated 17.01.2002, allowed the appeal filed by O.P No. 1 and set aside the order passed by the Hon’ble High court. |
| 8. | 19.09.2003 | Thereafter the O.P No. 4 gave an eviction notice to the owner to evict the said premises dated 19.09.2003 and asked the owner to vacate the said premises till 03.10.2003. |
| 9. | 2003 | Against said notice, the petitioner no. 3 preferred a Writ Petition before this Hon’ble Court which was registered as Writ C No. 5194 of 2003 (previously MISB No. 5194 of 2003) Jitendra Anand vs Defence Estate Ofiicer and Ors. for the grant of fair compensation |
| 10. |  | After the petitioner no. 3 has filed the writ petition stated above, the O.P No. 4 kept the notice dated 19.09.2003 in abeyance and has not executed the same |
| 11. | 20.08.2014 | The said Writ Petition was dismissed due to non presence. |
| 12. | 07.06.2024-02.07.2024 | After the dismissal of the said writ petition, the O.P No. 4 again issued the vacation notice dated 07.06.2024 and asked the petitioners to vacate said premises till 02.07.2024. |
| 13. | 11.07.2024 | Thereafter the petitioner no. 3 has preferred a recall application before this Hon’ble Court to recall the order dated 20.08.2014 as the case was not dismissed on merits and was dismissed for want of prosecution in which the Hon’ble Court vide order dated 11.07.2024, directed the Opposite parties to file the objections of the said applications |
| 14. |  | The Opposite party No. 2 has forcefully blocked the way of the said premises and illegally forcing the tenants not to enter the said premises |
| 15. |  | The dependents of the petitioner no. 1 and 2 i.e., their parents who are ex servicemen are critical medical patients and now living without water and electricity |
| 16. |  | That the O.P No. 2 and 3 has halted the electricity and water supply of the petitioners even there is no dues left and only to humiliate the petitioners, this illegal and unlawful act has been committed by the O.P No. 2 and 3 |
|  |  | Hence this Writ Petition. |

**Lucknow (ARPAN PRAKASH SRIVASTAVA)**

**Dated:** Advocate Counsel for Petitioner

AOR-B/A-2718

**IN THE HON’BLE HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW**

WRIT PETITION NO………………(WRIT-C) of 2024

1. Sweety Tripathi D/o Jagdish Prasad Tripathi R/o Bangla No. 25, Guptarghat, Cantt. Ayodhya, U.P
2. Sachin Thapa S/on Hari Bahadur Thapa R/o B No. 25, Sadar Bazar Cantt, Near D R C Officer Mess, Ayodhya, U.P.
3. Jitendra Anand aged about 60 years S/o Late Harish Chandra Anand R/o- 1065, Fatehganj Chowk Road, Moti Bagh, Faizabad ……Petitioners

Versus

1. Union of India through its Secretary, Ministry of Defence, New Delhi
2. Station Commander, Station Headquater, Cantonment, Ayodhya
3. Chief Executive Officer, Station Headquater, Cantonment, Ayodhya.
4. Defence Estate Officer, Allahabad Circle, Prayagraj, U.P .......Opposite Parties

**WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA**

**To,**

The Hon’ble Chief Justice and his other Companion Hon’ble Judges of the aforesaid Hon’ble High Court.

The humble petitioners of the above-named petitioner, most respectfully showeth as under: -

1. That the petitioners declares that this is the first writ petition being filed by them, no other writ petition or application regarding the present subject matter or cause of action has previously been filed before this Hon’ble Court either at Allahabad or at Lucknow.
2. That petitioner further declares that he has not been served any notice through registered post or otherwise from the opposite parties in the present writ petition.
3. That the petitioner also declares that this instant petition under article 226 of the Constitution of India does belong to the matter pertaining to CBI/ ED/ PMLA/ Prevention of Corruption Act/ NRHM/ GPF/ MP/ MLA, etc.
4. That this instant petition is preferred against the illegal and arbitrary action of O.P No. 3 whereby the O.P No. 3 has halted the electricity supply and water supply of the premises in which the petitioners are residing.
5. That it is further relevant to mention here that O.P No. 2 directed the O.P No. 3 to cut the electricity and water supply of the said premises without any advance notice and the O.P No. 3 halted the electricity and water supply of the said premises on 26.07.2024. Copy of the letter dated 26.07.2024 is annex herewith as **ANNEXURE NO. 1**
6. That the brief facts about the case is that the owner of the said premises namely Late Harish Chand Anand purchased the said property which is situated aa Bangla No. 25, Guptarghat, Cantt. Faizabad, U.P from Maharani Vidhyavati in the year 1958. Copy of the sale deed is annex herewith as **ANNEXURE NO. 2.**
7. That since then, Late Harish Chand Anand and his legal heirs are the rightful owner of the said property.
8. That the petitioner no. 1 and 2 are tenant in the said property since last 30 years and are residing over there peacefully and the petitioner no. 3 is the owner of the said property.
9. That it is pertinent to mention here that the O.P No. 1, vide notice dated 21st February 1972, resumed the said land and structure thereon and served the notice to the petitioner no. 3 to vacate the said premises.
10. That against that, the petitioner no. 3 preferred a writ petition before Hon’ble High Court of Judicature at Allahabad which was registered as Civil Misc. writ Petition No. 1757 of 1972. The Hon’ble High Court allowed the Writ petition and quashed the notice dated 21.02.1972 passed by O.P No. 1.
11. That the O.P No. 1 the preferred a Special Appeal against the judgement of the Hon’ble Single Judge which was registered as Special Appeal No. 36 of 1976. The division bench of the Hon’ble Court dismissed the said appeal and confirmed the judgement passed by Hon’ble Single Judge.
12. That the O.P No. 1, then preferred the Special Leave Petition before the Hon’ble Supreme Court which was registered as Civil Appeal No. 1868 of 1979 (Union of India and Ors vs. Sri Harish Chand Anand through his Legal heirs. The Hon’ble Apex court vide order dated 17.01.2002, allowed the appeal filed by O.P No. 1 and set aside the order passed by the Hon’ble High court. Copy of the final judgement and order passed by Hon’ble Apex Court is annex herewith as **ANNEXURE NO. 3**
13. That thereafter the O.P No. 4 gave an eviction notice to the owner to evict the said premises dated 19.09.2003 and asked the owner to vacate the said premises till 03.10.2003. Copy of the notice dated 19.09.2003 is annex herewith as **ANNEXURE NO. 4.**
14. That against said notice, the petitioner no. 3 preferred a Writ Petition before this Hon’ble Court which was registered as Writ C No. 5194 of 2003 (previously MISB No. 5194 of 2003) Jitendra Anand vs Defence Estate Ofiicer and Ors. for the grant of fair compensation.
15. That the said Writ Petition was dismissed due to non presence vide order dated 20.08.2014. Copy of the order dated 20.08.2014 is annex herewith as **ANNEXURE NO. 5**
16. That after the petitioner no. 3 has filed the writ petition stated above, the O.P No. 4 kept the notice dated 19.09.2003 in abeyance and has not executed the same.
17. That after the dismissal of the said writ petition, the O.P No. 4 again issued the vacation notice dated 07.06.2024 and asked the petitioners to vacate said premises till 02.07.2024. Copy of the notice dated 07.06.2024 is annex herewith as **ANNEXURE NO. 6**
18. That thereafter the petitioner no. 3 has preferred a recall application before this Hon’ble Court to recall the order dated 20.08.2014 as the case was not dismissed on merits and was dismissed for want of prosecution in which the Hon’ble Court vide order dated 11.07.2024, directed the Opposite parties to file the objections of the said applications. Copy of the order dated 11.07.2024 is annex herewith as **ANNEXURE NO. 7.**
19. That after that the Opposite parties are trying all the illegal methods to take the possession of the said premises and are not opting lawful method to take the possession.
20. That the Opposite party No. 2 has forcefully blocked the way of the said premises and illegally forcing the tenants not to enter the said premises. Copy of the photographs is annex herewith as **ANNEXURE NO. 8**
21. That now committed an illegal and unlawful act of halting the water and electricity supply to the petitioner from 26.07.2024. (Notice annexed).
22. That the dependents of the petitioner no. 1 and 2 i.e., their parents who are ex servicemen are critical medical patients and now living without water and electricity. Copy of the medical papers are annex herewith as **ANNEXURE NO. 9.**
23. That the O.P No. 2 and 3 has halted the electricity and water supply of the petitioners even there is no dues left and only to humiliate the petitioners, this illegal and unlawful act has been committed by the O.P No. 2 and 3. Copy of the receipts is annex herewith as **ANNEXURE NO. 10**
24. That the unlawful act committed by the O.P No. 2 and 3 infringes the fundamental right as provided by Article 21 of the Constitution of India.
25. That being aggrieved and having no other alternative and equally officious remedy, the petitioner is filing the present writ petition before this Hon’ble Court under Article 226 of the Constitution of India, inter-alia on the following grounds

**GROUNDS**

1. Because, the inaction on the part of the respondents is illegal arbitrary and devoid of any reason.
2. Because, the O.P No. 3 has halted the electricity supply and water supply of the premises in which the petitioners are residing.
3. Because, owner of the said premises namely Late Harish Chand Anand purchased the said property from Maharani Vidhyavati in the year 1958.
4. Because, the petitioner no. 1 and 2 are tenant in the said property since last 30 years and are residing over there peacefully and the petitioner no. 3 is the owner of the said property.
5. Because, the O.P No. 1, vide notice dated 21st February 1972, resumed the said land and structure thereon and served the notice to the petitioner no. 3 to vacate the said premises.
6. Because, the petitioner no. 3 preferred a writ petition before Hon’ble High Court of Judicature at Allahabad which was registered as Civil Misc. writ Petition No. 1757 of 1976. The Hon’ble High Court allowed the Writ petition and quashed the notice dated 21.02.1972 passed by O.P No. 1 and then the O.P No. 1 the preferred a Special Appeal against the judgement of the Hon’ble Single Judge which was registered as Special Appeal No. 36 of 1976. The division bench of the Hon’ble Court dismissed the said appeal and confirmed the judgement passed by Hon’ble Single Judge.
7. Because, the O.P No. 1, then preferred the Special Leave Petition before the Hon’ble Supreme Court which was registered as Civil Appeal No. 1868 of 1979 (Union of India and Ors vs. Sri Harish Chand Anand through his Legal heirs. The Hon’ble Apex court vide order dated 17.01.2002, allowed the appeal filed by O.P No. 1 and set aside the order passed by the Hon’ble High court.
8. Because, the petitioner no. 3 preferred a Writ Petition before this Hon’ble Court which was registered as Writ C No. 5194 of 2003 (previously MISB No. 5194 of 2003) Jitendra Anand vs Defence Estate Ofiicer and Ors. for the grant of fair compensation.
9. Because, after the petitioner no. 3 has filed the writ petition stated above, the O.P No. 4 kept the notice dated 19.09.2003 in abeyance and has not executed the same and again issued a fresh eviction notice dated 07.06.2024 after the writ petition was dismissed due to non presence vide order dated 20.08.2014.
10. Because, he petitioner no. 3 has preferred a recall application before this Hon’ble Court to recall the order dated 20.08.2014 as the case was not dismissed on merits and was dismissed for want of prosecution in which the Hon’ble Court vide order dated 11.07.2024, directed the Opposite parties to file the objections of the said applications.
11. Because, after that the Opposite parties are trying all the illegal methods to take the possession of the said premises and are not opting lawful method to take the possession.
12. Because, the Opposite party No. 2 has forcefully blocked the way of the said premises and illegally forcing the tenants not to enter the said premises.
13. Because, the dependents of the petitioner no. 1 and 2 i.e., their parents who are ex servicemen are critical medical patients and now living without water and electricity.
14. Because, the unlawful act committed by the O.P No. 2 and 3 infringes the fundamental right as provided by Article 21 of the Constitution of India.

**PRAYER**

Wherefore, it is most respectfully prayed that this Hon'ble Court may kindly be pleased to:.

1. Issue a Writ, order or direction in the nature of Certiorari, to quash the notice dated 26.07.2024 passed by Opposite Party No. 3 (ANNEXURE NO.1)
2. Issue a Writ, order or direction in the nature of Mandamus, Commanding the Opposite Parties, specially O.P No. 3 to reinstate the electricity and water supply to the said premises, with immediate effects.
3. Issue any other appropriate writ, order, or direction in favour of petitioner as this Hon'ble Court may deem fit and proper in the circumstance of the case.
4. Award the cost of the petition to the petitioner.

**Lucknow (ARPAN PRAKASH SRIVASTAVA)**

**Dated:** Advocate Counsel for Petitioner

AOR-B/A-2718

Regn. No. UP 5773/2020

Mobile – 8400231200

**IN THE HON’BLE HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW**

CIVIL MISC. WRIT PETITION NO………………(WRIT-C) of 2024

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2. Sachin Thapa S/on Hari Bahadur Thapa R/o B No. 25, Sadar Bazar Cantt, Near D R C Officer Mess, Ayodhya, U.P.
3. Jitendra Anand aged about 60 years S/o Late Harish Chandra Anand R/o- 1065, Fatehganj Chowk Road, Moti Bagh, Faizabad ……Petitioners

Versus

1. Union of India through its Secretary, Ministry of Defence, New Delhi
2. Station Commander, Station Headquater, Cantonment, Ayodhya
3. Chief Executive Officer, Station Headquater, Cantonment, Ayodhya.
4. Defence Estate Officer, Allahabad Circle, Prayagraj, U.P .......Opposite Parties

**AFFIDAVIT**

I, **Sweety Tripathi** aged about 32 years D/o Jagdish Prasad Tripathi R/o Bangla No. 25, Guptarghat, Cantt. Faizabad Ayodhya, U.P, Occupation- Self Employed, Qualification- Graduation, the deponent, do hereby solemnly affirm and state on oath as under: -

* 1. That the deponent is one of the petitioners and swear and file affidavit and doing pairvi on behalf of all the petitioners before this Hon’ble High Court and as such she is fully conversant with the facts and circumstances of the case deposed here under.
  2. That the contents of paragraphs of the accompanying writ petition are true to my personal knowledge, and contents of paragraphs are believed to be true on the basis of information received from records and those of paras believed to be true on the basis of legal advice.
  3. That the Annexure No. 1 to 6 of the accompanying writ petitions are the true/Photostat copies of their respective originals and are duly compared by the deponent.

**Lucknow**

**Dated: Deponent**

**VERIFICATION**

I, the deponent, do hereby verify that the contents of paragraphs 1 to 3 of the affidavit are true to my own knowledge No part of it is false and nothing material has been concealed. **So, help me God.**

**Lucknow**

**Dated: Deponent**

I identify the deponent on the basis of the identity card produced by him.

**Arpan Prakash Srivastava**

Advocate

Solemnely affirmed before me on July , 2024,

At a.m./p.m. by the deponent, Sweety Tripathi,

Who is identified by Sri **Arpan Prakash Srivastava**, Advocate,

High Court, Lucknow.

I have satisfied myself by examining the deponent

That he has understood the contents of this affidavit

Which have been read over and explained to him by me.

**OATH COMMISSIONER**

**IN THE HON’BLE HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW**

CIVIL MISC. WRIT PETITION NO………………(WRIT-C) of 2024

Sweety Tripathi and Ors ….Petitioners

Versus

Union of India and Ors. ….Opposite Parties

**APPLICATION FOR INTERIM RELIEF**

For the facts, reasons and circumstances stated in the accompanying writ petition duly supported by and affidavit, it is most respectfully prayed that this Hon’ble Court may graciously be pleased to quash the notice dated 26.07.2024 issued by Opposite Party No. 2 and direct the Opposite party no. 3 to reinstate the supply of electricity and water with immediate effects, in the interest of justice.

Any other order or direction which this Hon’ble Court may deem just and proper may also be passed in interest of the justice.

**Place: Lucknow Arpan Prakash Srivastava**

**Dated:** (Advocate)

AOR- B/A-2718