



2026:AHC:160902

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WRIT PETITION No. - 18500 of 2026

Ghanshyam Pandey

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Maheshwari Prasad Pandey, Satish Chandra Singh
Counsel for Respondent(s)	:	G.A.

Court No. - 73

HON'BLE SANDEEP JAIN, J.

The instant writ petition has been filed for the following reliefs:-

"i. Issue a writ, order or direction in the nature of certiorari quashing the notice dated 02.01.2026 issued by the respondent no.2 under Section 152 of Bhartiya Nagrik Suraksha Sanhita, 2023 in pursuance of the application filed by the respondent no.3 and also to quash the proceeding initiated in pursuance of the notice dated 02.01.2026.

ii. Issue a writ, order or direction in the nature of mandamus commanding/directing the respondent authorities not to interfere in peaceful possession of the petitioner upon which the pillar is established.

iii. Issue any other further writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

iii. Award the cost of the writ petition to the petitioner."

Learned counsel for the petitioner submitted that a false and frivolous proceeding has been initiated at the instance of respondent No.3, Ravi Shankar Pandey, under Section 152 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), alleging that a public pathway (chak road) constructed by the Gaon Sabha over Gata Nos.456/1358, 471 and 473 had been encroached upon by the petitioner and others by installing iron pillars, thereby obstructing the free movement of the villagers.

He further submitted that pursuant to the said complaint, an inquiry was

conducted by the Sub-Inspector, Police Station Gopiganj, District Bhadohi. During the course of the inquiry, it was reported that iron pillars had been installed on the alleged public pathway due to which four-wheeled vehicles, including cars and tractors, were unable to pass, although two-wheelers could still ply over the road.

On the basis of the said inquiry report, the Sub-Divisional Magistrate, Tehsil Gyanpur, District Bhadohi issued a preliminary notice under Section 152 BNSS to the petitioner and one Pawan Kumar, alleging that they had prima facie encroached upon the public pathway situated over Gata No.456/1358, admeasuring 0.007 hectare, on which an interlocking brick road had been constructed. The notice specifically alleged that the iron pillars installed by the petitioner had obstructed the movement of vehicles and pedestrians and called upon him to show cause.

Learned counsel further submitted that in response to the aforesaid show-cause notice, the petitioner and Pawan Kumar filed a detailed reply specifically asserting that the disputed land does not form part of Gata No.456/1358, as alleged by the complainant, but falls within Gata No.468, admeasuring 0.372 hectare, situated at Mauza Kalnua. It was contended that respondent No.3 has deliberately misrepresented the identity of the land in order to harass the petitioner.

It was further submitted that Gata No.468 is the recorded property of the petitioner, where the iron pillars have been erected solely for the protection and fencing of his own land. Learned counsel also pointed out that the petitioner has already instituted Original Suit No.194 of 2025 before the Court of Civil Judge (Senior Division), Gyanpur, District Bhadohi, in respect of Gata No.468, admeasuring 0.372 hectare, Mauza Kalnua, wherein the competent Civil Court, by order dated 23.07.2025, has directed the respondent not to interfere in the possession of the petitioner .

Learned counsel, therefore, submitted that the iron pillars have been installed within the petitioner's own land comprised in Gata No.468 and not over the public pathway situated in Gata No.456/1358, as has been falsely alleged by respondent No.3.

I have heard learned counsel for the petitioner and perused the material available on record.

The case set up by respondent No.3 is that the petitioner has encroached upon the public chak road situated in Gata No.456/1358, admeasuring 0.007 hectare, over which an interlocking brick road has been constructed, by installing iron pillars, thereby causing obstruction to the movement of vehicles and the general public.

On the other hand, the consistent stand of the petitioner is that the iron pillars have been installed within his own land comprised in Gata No.468, measuring 0.372 hectare, Mauza Kalnua, in respect whereof Original Suit No.194 of 2025 is pending before the Court of Civil Judge (Senior Division), Gyanpur, District Bhadohi. It is also not disputed that by order dated 23.07.2025, the Civil Court has directed the respondent not to interfere in the possession of the petitioner.

It is further evident from the record that the proceedings under Section 152 BNSS are still pending before the competent authority, wherein the parties have yet to adduce their respective evidence. The principal controversy between the parties relates to the identity and location of the disputed land, namely, whether the iron pillars have been erected over the public pathway comprised in Gata No.456/1358 or within the petitioner's land comprised in Gata No.468.

In the considered opinion of this Court, the aforesaid controversy cannot be effectively resolved without a proper demarcation and survey of the disputed site by a competent Survey Commission/Revenue Authority. Only after such demarcation can the exact location and identity of the disputed land be conclusively determined.

Accordingly, without expressing any opinion on the merits of the rival claims, the Sub-Divisional Magistrate, Gyanpur, District Bhadohi, is directed to get the disputed land demarcated through a competent Survey Commission/Revenue Authority so as to ascertain whether the alleged encroachment falls within Gata No.456/1358, being the public pathway, or within the petitioner's land comprised in Gata No.468, admeasuring 0.372 hectare, situated at Mauza Kalnua. Upon receipt of the demarcation

report and after affording adequate opportunity of hearing to all concerned parties, the Sub-Divisional Magistrate shall proceed to decide the proceedings under Section 152 BNSS strictly in accordance with law, preferably within a further period of three months from the date of production of a certified copy of this order.

With the aforesaid observations and directions, the instant writ petition stands ***disposed of***.

(Sandeep Jain,J.)

August 3, 2026
Himanshu