



2026:AHC:163424

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 25649 of 2026

Ashutosh Kumar And 4 Others

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Birendra Singh, Ratan Singh, Swati Singh
Counsel for Respondent(s)	: C.S.C.

Court No. - 37

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard learned Counsel for the petitioner and Mr. Vijay Pratap Singh, learned Standing Counsel for the State respondents.

2. The instant writ petition has been filed for the following relief:-

" i) issue a writ, order or direction in the nature of Mandamus commanding the respondent no. 2, namely the District Magistrate/Collector, Banda, to consider and decide the application dated 17.02.2022 and the subsequent representations/reminders dated 23.08.2022, 19.03.2024 and 06.01.2025 preferred by the petitioner nos. 1 to 4 within a stipulated period as may be fixed by this Hon'ble Court.

ii) issue a writ, order or direction in the nature of Mandamus commanding the respondent no. 2, namely the District Magistrate/Collector, Banda, to grant permission under Section 98 of the U.P. Revenue Code, 2006 to petitioner nos. 1 to 4 to execute the sale deed in favour of petitioner no. 5 in respect of Gata No. 1254, admeasuring 0.4050 hectare, situated at Village Khurhand, Pargana and Tehsil Atarra, District Banda, having been necessitated on account of the treatment of late Shri Sundar Lal suffering from cancer and discharge of liabilities incurred therefor; "

3. Counsel for the petitioner submitted that petitioner filed an application/ representation dated 17.2.2022/ 23.8.2022/ 19.3.2024/ 6.1.2025 before the District Magistrate/ Collector Banda to permit the

petitioners to execute the sale deed after granting permission as required under Section 98 of U.P. Revenue Code, 2006 but authorities have not taken any steps in the matter. He submitted that in the application dated 23.8.2022, reason has been assigned for permission/ execution of sale deed by petitioner. He submitted that respondent no.2 should be directed to consider the petitioner's application for permission/ execution of sale deed in accordance with law.

4. On the other hand, learned Standing Counsel for the State submitted that petitioners have not filed application in proper manner as prescribed under Section 98 of U.P. Revenue Code, 2006 and Rules framed thereunder, as such, authorities have not registered the proceeding. He submitted that petitioner should file proper application as provided under Section 98 of U.P. Revenue Code, 2006 rather writ petition before this Court.

5. I have considered the argument advanced by learned Counsel for the parties and perused the records.

6. There is no dispute about the fact that petitioners are owner in possession of plot no. 1254 and belong to Schedule Castes category.

7. Under Section 98 of the U.P. Revenue Code, 2006, a provision has been prescribed for granting permission to a person belonging to the Scheduled Caste for the execution of a sale deed. The competent authority is required to consider the application, conduct the necessary inquiry, verify the relevant facts, and, after recording its satisfaction in accordance with law, grant or refuse such permission.

8. Section 98 of the U.P. Revenue Code, 2006 will be relevant for perusal which is as under:-

"98. Restrictions on transfer by bhumidhars belonging to a scheduled caste.- (1) Without prejudice to the provisions of this Chapter, no bhumidhar belonging to a scheduled caste shall have the right to transfer, by way of sale, gift, mortgage or lease any land to a person not

belonging to a scheduled caste, except with the previous permission of the Collector in writing:

Provided that the permission by the Collector may be granted only when-

(a) the bhumidhar belonging to a scheduled caste has no surviving heir specified in clause (a) of sub-section (2) of section 108 or clause (a) of section 110, as the case may be; or

(b) the bhumidhar belonging to a scheduled caste has settled or is ordinarily residing in the district other than that in which the land proposed to be transferred is situate or in any other State for the purpose of any service or any trade, occupation, profession or business; or

(c) the Collector is, for the reasons prescribed, satisfied that it is necessary to grant the permission for transfer of land.

(2) For the purposes of granting permission under this section the Collector may make such inquiry as may be prescribed."

9. Considering the provisions contained under Section 98 of U.P. Revenue Code, 2006, petitioner should file proper application under proper provision before the District Magistrate in accordance with law.

10. Considering the entire facts and circumstances of the case, the instant petition is finally **disposed of** directing the petitioner to file application under Section 98 of the U.P. Revenue Code, 2006 before the respondent no.2, District Magistrate/ Collector Banda within period of **three weeks** from today which shall be registered by the District Magistrate Banda/ respondent no.2 and decide the same in accordance with law expeditiously.

(Chandra Kumar Rai,J.)

August 5, 2026

Vandana Y.