



2026:AHC-LKO:6058-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 720 of 2026

Siraj @ Mohd. Siraj

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Deptt. Lko.
And 5 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Mohammad Aslam Siddiqui, Sheikh Mohammad Ali
Counsel for Respondent(s)	: C.S.C., Shailendra Singh Chauhan

Court No. - 1

HON'BLE RAJAN ROY, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

1. Shri Yatindra Pathak, Advocate has filed his vakalatnama on behalf of the opposite party no. 5. The same is taken on record.
2. Heard Mohammad Aslam Siddiqui, learned counsel for the petitioner, Shri Raj Bux Singh, learned Additional Chief Standing Counsel for the State and Shri Yatindra Pathak, learned counsel for the opposite party no. 5.
3. Considering the order proposed to be passed issuance of notice to the opposite party no. 6 is dispensed with.
4. This writ petition has been filed by the petitioner seeking the following reliefs:-

"[I] Issue a writ order or direction in the nature of Mandamus commanding the opposite parties no. 2 to 5 to provide the police force for peaceful demolition of the house no. 398/19, Taki Manzil Takia Peer Ghaib, Maulana Kalbe Abid Ward, Lucknow by fixing any suitable date for maintaining law and order.

[II] Issue a writ order or direction in the nature of

Mandamus commanding the opposite party no. 2 to consider and decide the representation of the petitioner dated 3.11.2025 as contained in ANNEXURE NO. 2 to this writ petition expeditiously by a speaking and reasoned order."

5. It is informed that there is a tenant in the premises demolition of which has been sought by the petitioner and in respect of which a notice has been given by the Municipal Corporation under Section 331 (1) of the U.P. Municipal Corporations Act, 1959 (hereinafter referred to as 'the Act, 1959'), however, there is no other material before us, as of now, as to what is the basis for such notice.

6. Moreover, learned Additional Chief Standing Counsel Shri Raj Bux Singh says that he has written instructions from Sub-Inspector, Police Station - Saadatganj, Police Commissionarate, Lucknow that there is a tenant residing in the premises in question who is an occupant since past 50 years. It is not known as to whether the petitioner is in possession of the said premises or not, though, he claims title. It is also not known as to whether there are any proceedings pending before any Court at the behest of said tenant or any other dispute exists in respect thereof.

7. Be that as it may, we have perused Section 331 of the Act, 1959 which reads as under:-

"Section 331 - Removal of structures, etc., which are in ruins or likely to fall.-(1) If it shall at any time appear to the [Municipal Commissioner] that any structure (including under this expression any building, wall, parapet pavement, floor steps, railing door or window frames or shutters or roof or other structure and anything affixed to or projecting from or resting on, any building, wall, parapet or other structure) is in a ruinous condition or likely to fall, or in any way dangerous to any person occupying, resorting to or passing by such structure

or any other structure or place in the neighbourhood thereof, the [Municipal Commissioner] may, by written notice, require the owner or occupier of such structure to pull down, secure, remove or repair, such structure or thing or do one or more of such things and to prevent all cause of danger therefrom.

(2) The [Municipal Commissioner] may also, if he thinks fit, require the said owner or occupier by the said notice, either forthwith or before proceeding to pull down, secure, remove or repair the said structure or thing, to set up a proper and sufficient board or fence for the protection of passers-by and other persons, with a convenient platform and hand-rail, if there be room enough for the same and the [Municipal Commissioner] shall think the same desirable, to serve as a footway for passengers outside of such hoard or fence.

(3) If it appears to the [Municipal Commissioner] that the danger from a structure which is ruinous or about to fall is imminent he may, before giving notice as aforesaid or before the period of notice expires, fence off, take down, secure or repair the said structure or take such steps or cause such, work to be executed as may be required to arrest the danger.

(4) Any expenses incurred by the [Municipal Commissioner] under sub-section (3) shall be paid by the owner or occupier of the structure.

(5) (a) Where the [Municipal Commissioner] is of opinion whether on receipt of an application or otherwise that the only or the most convenient means by which the owner or occupier of a structure such as is referred to in sub-section (1) can pull down, secure, remove or repair such structure, is by entering any of the adjoining premises belonging to some other person the [Municipal Commissioner] after giving such person a reasonable opportunity of stating any objection may, if no such objection is raised or if any objection which is raised appears to him invalid or insufficient, by an order in writing, authorise the said owner or occupier to enter such adjoining premises.

(b) Every such order bearing the signature of the [Municipal Commissioner] shall be a sufficient authority to the person in whose favour it is made, or to any, agent or person employed by him for this purpose, after giving to the owner of the premises reasonable written notice of his intention so to do, to enter upon the said premises with assistants and workmen, at any time between sunrise and sunset, and to execute the necessary work.

(c) In executing any work under this section as little damage as can be, shall be done to the adjoining owner's property, and the owner or occupier of premises for the benefit of which the work is done, shall--

(i) cause the work to be executed with the least practicable delay,

(ii) pay compensation to any person who sustains damage by the execution of the said work"

8. The Municipal Commissioner is authorized to take such action as may be required under the aforesaid provision of the Act, 1959. It would be better if the Municipal Commissioner, Lucknow gives notice to the tenant also, if there is a cause to proceed under Section 331 of the Act, 1959, meaning thereby, before giving notice he should be satisfied that there is a valid, genuine and bonafide cause referable to any action proposed under Section 331 of the Act, 1959 and then, give such notice. Thereafter, he shall consider the matter as per law and take such decision as may be required, but only after hearing the tenant also.

9. With the aforesaid observations/ directions, the writ petition is **disposed of.**

(Abdhesh Kumar Chaudhary,J.) (Rajan Roy,J.)

January 28, 2026

R.K.P.