



2026:AHC-LKO:9472

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

PUBLIC INTEREST LITIGATION (PIL) No. - 1285 of 2025

Prakash

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Revenue U.P. Lko.
And 11 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Shravan Kumar, Ajeet Kumar
Counsel for Respondent(s)	: C.S.C., Tanmay Krishna Srivastava

Court No. - 17

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Sri Shravan Kumar Singh, the learned counsel for the petitioner, Sri Rahul Shukla, the learned Additional Chief Standing Counsel for the State of U.P. and Sri Tanmay Krishna Srivastava, the learned counsel for the opposite party no. 7.

2. By means of the instant writ petition, the petitioner has sought issuance of a direction for removal of encroachment from public utility land bearing Gata No. 322 situated at Village Farhadpur, Hasanganj, District Unnao which is recorded as Rasta/ public way in the revenue record.

3. Initially the learned Additional Chief Standing Counsel has submitted on the basis of instructions provided by the Executive Engineer, Construction Division-I, Public Works Department, that the encroachers were directed to remove the encroachment within three days. In spite of this fact, as it was averred in the instructions that the petition had not been filed in public interest, the Court had sought answer of two specific questions from the learned Additional Chief Standing Counsel (1) whether any suit is pending concerning the land in dispute and (2) in case any such suit is pending whether the State has filed any application in the suit. On 25.01.2026, the Sub Divisional Magistrate, Hasanganj, Unnao and the Executive Engineer, Construction Division-I, Public Works Department, Unnao had provided instructions to the learned Chief Standing Counsel stating that the opposite party no. 7-Rama Shankar had constructed a shop on land bearing Gata No. 322 and 328. Rams Shankar

has filed Regular Suit No. 25/2013 for perpetual injunction in which an order dated 17.01.2025 was passed directing the parties to maintain status quo. After recording the aforesaid facts, this Court had recorded in the order dated 29.01.2026 that it appears that the State Government is not a party to the Regular Suit No. 25/2013 and any order of temporary injunction passed in the said suit is not binding on the State Government or its officers. A copy of the temporary injunction order dated 17.01.2013 was enclosed to the written instructions provided to the learned Chief Standing Counsel which shows that the plaintiff (opposite party no. 7) claimed himself to be tenant of the shop and the suit was filed based on the tenancy rights. From the aforesaid facts, this Court concluded that:-

(a) the temporary injunction order was effective against the defendant and not against the State Government or its officers;

(b) the temporary injunction merely restraining the landlord to disposes the plaintiff otherwise than in accordance with the law. As the State Government is not the landlord of the plaintiff and the plaintiff was not its tenant, this injunction was not binding on the State Government.

(c) the order was merely against dispossession of the opposite party no. 7 without adopting the due process of law and it did not bar removal of encroachment in accordance with law.

(d) it appears that the encroacher was misusing public land for the past 13 years on the basis of an order of temporary injunction.

4. The aforesaid aspects were not dealt with in the instructions provided to the learned Additional Chief Standing Counsel, this Court had granted an opportunity to the Sub Divisional Magistrate, Hasanganj, Unnao to appear before this Court and submit an explanation.

5. In compliance of the aforesaid order Ms. Pragya Pandey, the Sub Divisional Magistrate, Hasanganj, Unnao has appeared before this Court and has filed her personal affidavit stating that the land bearing Gata No. 322 is recorded as road in category 9(2) which is a state highway and is under the control of Public Works Department, Unnao.

6. Some encroachment was there on a part of the road regarding which the Executive Engineer, Construction Division-I, Public Works Department, Unnao had sent a letter dated 08.01.2026 to the Sub Divisional Magistrate stating that by means of a notice dated 29.10.2025 the encroachers were asked to remove the encroachment within three days but they had not removed the encroachment. It was requested through the aforesaid letter that the encroachment be removed.

7. In furtherance of the aforesaid letter, the Sub Divisional Magistrate passed an order dated 13.01.2026 directing the Naib Tehsildar, Hasanganj to get the encroachment removed and a team of revenue officials was constituted for compliance of this order. The encroachment has been removed on 02.02.2026.

8. It has further been stated in the affidavit that although the land is recorded as a road under the control of Public Works Department, the petitioner had not correctly pleaded this fact they had merely pleaded that the land in question was a rasta recorded in the revenue record.

9. The explanation tendered by the Sub Divisional Magistrate is sufficient. As the encroachment in question has already been removed, nothing more survives to be adjudicated in this petition which is ***disposed off*** accordingly.

(Subhash Vidyarthi,J.)

February 6, 2026

Pradeep/-