



2026:AHC-LKO:12366

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

PUBLIC INTEREST LITIGATION (PIL) No. - 90 of 2026

Pateshwari Prasad Mishra

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Deptt. Of Revenue
Lko. And 6 Others

.....Respondent(s)

Counsel for Petitioner(s) : Daya Shankar Tiwari, Aditya Pandey
Counsel for Respondent(s) : C.S.C., Pankaj Gupta

Court No. - 17

HON'BLE SUBHASH VIDYARTHI, J.

1. Upon the case being called out, Shri Anurag Dwivedi, Advocate had requested adjournment of the case on the ground that Shri Daya Shankar Tiwari, one of the two learned counsel for the petitioner, is out of station.
2. Upon being asked as to why Shri Aditya Pandey is not present in the Court, he states that he has no idea about reason of his absence.
3. On 12.02.2026, the following order was passed by this Court :-

"1. Sri Daya Shankar Tiwari, one of the two learned counsel for the petitioner has sent an out of station slip and the other learned counsel Sri Aditya Pandey is not present in the Court and no request for adjournment of the case has been made on his behalf.

2. Sri Dheeraj Ojha, the learned Standing Counsel for the State of U.P., Sri Talib Khan holding brief of Sri Pankaj Gupta, the learned counsel for the Gaon Sabha have raised a preliminary objection that this is the second writ petition filed by the petitioner for the same relief and a private dispute between the parties is pending.

3. However, in the interest of justice, hearing of the case is adjourned.

4. List in the list of fresh cases on 17.02.2026.

5. In case the learned counsel for the petitioner is not present the Court will pass appropriate orders in the petition. "

4. In these circumstances, the request for adjournment of the case is turned down and the Court proceeds to examine the merits of the case.
5. By means of the instant petition filed in public interest, the petitioner has sought issuance of a direction for removal of encroachment from land

bearing Gata No.741 measuring 0.0320 hectare which is recorded as Chak Marg and Gata No.742 measuring 0.032 hectare, which is recorded as Naveen Parti situated in Village Gidhraiya, Bheekhpur, Tehsil- Sadar, District- Balrampur.

6. It has been stated in the written instructions provided by Tehsildar, Sadar, Balrampur that both the lands in questions are free from encroachment.

7. Learned Standing Counsel has submitted that although the petitioner has filed the present petition in public interest claiming that he has no personal interest in the matter, previously he had filed Writ C No.2934 of 2024 with the same relief indicating that he is personally interested in the matter. The said writ petition was dismissed as not maintainable and thereafter, the petitioner has filed the second writ petition in public interest.

8. In para 10 of the writ petition, the petitioner has stated that he has filed an IGRS complaint and he has also filed a Civil Suit bearing No.603 of 2022 in the Court of Civil Judge (J.D.), Balrampur which is pending. Both the parties have been challaned under Section 107 and 116 Cr.P.C on 16.11.2023. These facts indicate that there is animosity between the petitioner and the opposite party No.7-Shivnath and repetitive litigation is being instituted by the petitioner due to some personal grudge against the opposite party No.7. Further, when a suit filed by the petitioner is said to be pending as per the pleading made in the petition itself, filing of a writ petition during pendency of the suit is not permissible in law.

9. The instructions have categorically stated that an inspection was made wherein it was found that the lands in question are free from encroachment. The aforesaid facts indicate that the petition has been filed because of personal animosity between the petitioner and the opposite party No.7, during pendency of civil suit between the parties when the allegation of encroachment being made by the opposite party No.7 has been found to be false upon a local inspection.

10. In view of the aforesaid discussion, the writ petition is hereby **dismissed**.

February 17, 2026

-Amit K-

(Subhash Vidyarthi,J.)