



2026:AHC-LKO:14852-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL DEFECTIVE No. - 161 of 2026

Rakesh Kumar

.....Appellant(s)

Versus

Ram Jivan And 6 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Hemant Kumar Mishra, Abhishek Mishra, Arti Ganguly
Counsel for Respondent(s)	:	Shivani Soni, C.S.C.

Court No. - 1

HON'BLE RAJAN ROY, J.

HON'BLE ABDHESH KUMAR CHAUDHARY, J.

**(Order on C.M.Application No.1 of 2026; Application for
Condonation of Delay)**

1. Vakalatnama filed today by Shri Shitla Prasad Tripathi, Advocate on behalf of opposite party No.1 is taken on record.

2. Heard Shri Hemant Kumar Mishra, learned Counsel for the appellant, Shri Shitla Prasad Tripathi, learned Counsel for the opposite party No.1 and Shri Akash Sinha, learned Standing Counsel for the State.

3. As the appellant was an opposite party No.6 before the Writ Court in Public Interest Litigation No.283 of 2025 (Ram Jivan vs. State of U.P. and Others) but the said petition was decided on 07.04.2025 without issuing notice and hearing him and it has been asserted in the affidavit filed in support of the application for condonation of delay that the appellant came to know about the said order dated 07.04.2025 and the consequential orders by the District Magistrate, Unnao in compliance thereof only in February, 2026, therefore, we are of the opinion that the delay in filing this appeal is satisfactorily explained, accordingly, we condone the delay in filing the appeal. The application for condonation of delay is **allowed**.

(Order on Memo of Appeal)

4. In so far as the merits of the appeal is concerned, we find that in view of the decision of Hon'ble the Supreme Court in the case of ***Abhishek Gupta vs. Dinesh Kumar & Ors.*** passed in ***Special Leave Petition (C) Nos.35171-72 of 2025*** as the appellant-opposite party No.6 though was a party before the Writ Court but has not been heard by the Writ Court, therefore, the appeal is also maintainable against the impugned order especially as it issues a direction to the concerned for completing the proceedings for removal of encroachment within ninety days.

5. After hearing the parties, we are of the opinion that the version of the appellant-opposite party No.6 should be heard by the District Magistrate, Unnao and thereafter, further proceedings for removal of encroachment should be undertaken. The order of the Writ Court is modified to the aforesaid extent. To facilitate the aforesaid, the appellant-opposite party No.6 shall submit his version in writing as to why the encroachment should not be removed within ten days from today, thereafter, the facts shall be got verified if necessary and further proceedings shall be held.

6. The appeal is **disposed of** in the aforesaid terms.

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

February 24, 2026

-Piyush-