



2026:AHC:5795

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 29 of 2026

Gurbakhsh Singh

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Akhilesh Kumar Pandey, Nasir Hussain, Sr. Advocate
Counsel for Respondent(s)	: Arun Kumar Pandey, C.S.C.

Court No. - 55

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Sri Vinay Kumar Khare, learned Senior Counsel assisted by Sri Nasir Hussain, learned counsel for the petitioner, Sri M.N. Mishra, learned Additional Chief Standing Counsel for the State-respondents and Sri Arun Kumar Pandey, learned counsel for the respondent- Gram-Sabha.

2. With the consent of learned counsel for the parties, the instant writ petition is heard finally without inviting counter affidavit.

3. Brief facts of the case are that suit under Section 229-B of the U.P. Zamindari Abolition and Land Reforms Act, 1950 (hereinafter referred to as the U.P.Z.A. & L.R. Act) was filed by petitioner before trial Court/ Sub-Divisional Officer. Trial Court without framing the issues in the suit has dismissed the plaintiff's suit vide judgment & decree dated 29.05.1997. The appeal filed by the petitioner was dismissed by the first appellate Court vide judgment dated 25.11.1997. The second appeal filed by the petitioner has also dismissed by the Board of Revenue vide judgment dated 09.04.2025. Hence, this writ petition for following relief:-

"i. Issue a writ order or direction in the nature of certiorari quashing the impugned order dated 09.04.2025 passed by respondent no.2/Board of Revenue, Prayagraj in Second Appeal No. SA/30/1997-98/Bijnor (Computerized Case No. AL 1998131699119) (Guru Baksha Singh Vs. State of U.P. and another), under Section 331 of the U.P. Zamindari Abolition and Land Reforms Act, 1950 (Annexure No.6 to the writ petition).

ii. Issue a writ, order or direction, in the nature of certiorari quashing the impugned order dated 25.11.1997 passed by respondent no.3/Additional Commissioner

(Administration) Moradabad, Division, Moradabad in Appeal No. 72/1996-97 (Guru Baksha Singh Vs. State of U.P. and another) under Section 331 of the U.P. Zamindari Abolition and Land Reforms Act, 1950. (Annexure No.4 to the writ petition).

iii. Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 29.05.1997 passed by respondent no.4/Sub Divisional Officer, Nagina District Bijnor in Original Suit No. 28 of 1996 (Guru Singh Vs. State of U.P. and another) under Section 331 of the U.P. Zamindari Abolition and Land Reforms Act, 1950 (Annexure No.2 to the writ petition).

iv. Issue any other writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

v. Award the cost of the petitioner to the petitioner."

4. Learned Senior Counsel for the petitioner submitted that suit under Section 229-B of U.P.Z.A. & L.R. Act filed by the petitioner cannot be dismissed without framing issues and giving parties to lead evidence in accordance with law. He placed the order passed by the trial Court in order to demonstrate that without framing the issues in the suit, the suit for declaration has been dismissed by the trial Court by passing cryptic order. He further submitted that order of trial Court has been maintained in first appeal as well as second appeal in arbitrary manner. He placed reliance upon the judgment of this Court reported in **2020 (146) RD 186 Babu vs. Mahavir and Others**, in order to demonstrate suit for declaration cannot be dismissed without framing issues and giving opportunity to party to lead evidence in accordance with law. He further submitted that all the three impugned orders should be set aside and matter should be remitted back before the trial Court to register the suit on its original number and decide the same in accordance with law.

5. On the other hand, Sri M.N. Mishra, learned Additional Chief Standing Counsel for the State-respondents submitted that it is correct that trial Court has not framed the issues in the suit but Board of Revenue has recorded the finding to the effect that plaintiff's suit cannot be maintained in view of the entry of the plot in questions. He further submitted that plea of adverse possession cannot be raised in respect to Gaon Sabha plot. He further submitted that no interference is required against the impugned judgment and the writ petition filed by the petitioner should be dismissed.

6. I have considered the arguments advanced by learned counsel for the

parties and perused the record,

7. There is no dispute about the fact that suit for declaration under Section 229-B of U.P.Z.A. & L.R. Act filed by the petitioner was dismissed by the trial Court and order of trial Court has been maintained in appeal as well as second appeal.

8. It is settled principles of law that suit for declaration under Section 229-B of U.P. Z.A. & L.R. Act, now Section 144 of U.P. Revenue Code, 2006 cannot be decided without framing issues and giving parties to lead evidence in accordance with law.

9. This Court in the case of **Babu (Supra)** has held that order passed in suit under Section 229-B of U.P. Z.A. & L.R. Act without framing issues cannot be sustained in the eye of law. Paragraph nos.4, 5 & 6 of the judgment rendered in **Babu (Supra)** which is as under:-

"The manner in which the suit instituted by the respondent no.1 under Section 229-B of U.P. Z.A. & L.R. Act has been decided by the impugned order dated 28.01.2019 cannot be appreciated. The trial court has neither framed issues nor has provided any opportunity of leading evidence to the parties to prove their respective cases. The provisions contained in Code of Civil Procedure has been given a go bye.

As already observed above by the Court in its order dated 21.02.2019, the proceedings under Section 229-B of U.P.Z.A & L.R Act are regular proceedings where declaration of rights in a holding is decided on the basis of evidence.

Learned counsel for respondent no.1 has also not been able to defend the impugned order; rather he appears to agree that the matter ought to have been remanded to the Sub-Divisional Officer concerned."

10. Impugned order of trial Court fully demonstrates that no issues have been framed by the trial Court and the suit under Section 229-B of U.P.Z.A. & L.R. Act filed by the petitioner has been dismissed by cryptic order.

11. This Court has also held that a suit under Section 229-B of U.P. Z.A. & L.R. Act is of special character, as such, the same cannot be decided in arbitrary manner.

12. Considering the entire facts and circumstances of the case as well as the ratio of law laid down by this Court in **Babu (Supra)**, the impugned judgments passed by trial Court, first appellate Court and second appellate Court cannot be sustained in the eye of law, accordingly, the impugned order

dated 09.04.2025 passed by respondent no.2/Board of Revenue, Prayagraj, order dated 25.11.1997 passed by respondent no.3/Additional Commissioner (Administration), Moradabad, Division, Moradabad and order dated 29.05.1997 passed by respondent no.4/Sub Divisional Officer, Nagina, District Bijnor are hereby set aside.

13. The writ petition stands **allowed** and matter is remitted back before respondent no.4/ trial Court /Sub-Divisional Officer, Nagina District Bijnor to register the Suit No. 28 of 1996 (Guru Baksha Singh Vs. State of U.P. and another) to its original number and decide the same afresh after framing issues and giving opportunity to parties to lead evidence in accordance with law, expeditiously, preferably, within a period of six months from the date of production of a certified copy of this order.

(Chandra Kumar Rai,J.)

January 9, 2026
Imtiyaz