



2026:AHC:16049

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 1681 of 2026

Vipin Bihari Agarwal And 3 Others

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Prashant Mishra
Counsel for Respondent(s)	: Avinash Chandra Srivastava, C.S.C.

Court No. - 2

HON'BLE PRAKASH PADIA, J.

1. Heard Sri Tarun Agarwal, learned Senior Counsel assisted by Sri Prashant Mishra, learned counsel for the petitioners, learned Standing Counsel for the respondent-State and Sri A.C. Srivastava, learned counsel for the respondent no.3.

2. The proceedings under Section 67 of the U.P. Revenue Code, 2006 was initiated against the petitioners on the report submitted by the Lekhpal, which was registered as Case No.5520 of 2022, Computer Case No.T202201500405520. In the said proceedings the following order was passed on 28.04.2025, 02.05.2025, 09.05.2025, 16.05.2025 and on 17.05.2025, which reads as follows :-

"28.04.2025

पत्रा० पेश, पुकार कराई गयी, उभय पक्ष हाजिर। लेखपाल ने अपने बयान अंकित कराये, जिरह पूर्ण नहीं हो सकी, अतः पत्रा० वास्ते जिरह लेखपाल दिनांक 02.05. 2025 को पेश हो।

02.05.2025

पत्रा० पेश, अधि०गण न्यायिक कार्य से विरुद्ध, पत्रा० वास्ते जिरह लेखपाल दिनांक 9.5.25 को पेश हो।

09.05.2025

पत्रा० पेश, समय अभाव के कारण पत्रा० वास्ते जि०ले० दिनांक 16.5.2025 को पेश हो।

16.05.2025

पत्रा० पेश, पुकार करायी गयी, शास० अधि० हाजिर आये। बार-2 पुकार कराए जाने के बावजूद प्रति० मय अधि० गैर हाजिर हैं, अतः शास० अधि० को सुना गया। तदनुसार पत्रा० वास्ते निस्तारण दि० 17.5.2025 को पेश हो।

17.05.2025

पत्रा० पेश, जिसका अवलोकन किया गया, अवलोकनोपरान्त पत्रा० पर टंकित शुदा आदेश पारित किया जाता है, के बाद आ०का० पत्रा० दाखिल दफ्तर हो।"

3. It is argued by Sri Tarun Agarwal, learned Senior Counsel that respondent no.2 namely Tehsildar, Tehsil-Mant, District Mathura has ignored the fact that on 28.04.2025 cross examination of the Lekhpal was going on, however, due to paucity of time it could not be completed on the said date. It is clear from perusal of the order-sheet that even on further dates petitioners counsel was present but due to some reasons or the other the matter could not be taken on those dates. It is further argued that thereafter petitioners were utterly surprised to know that orders were reserved by the respondent no.2 and the matter was decided by an ex-parte manner. Once cross examination of the Lekhpal was going on and since the same was not even completed, there was no occasion for the respondent no.2 to pass the order dated 17.05.2025 and that too an exparte manner. Though in the appeal filed by the petitioners all the grounds were duly taken but they were not taken into consideration by the respondent no.1 on 31.10.2025.

4. On the other hand it is argued by learned Standing Counsel that both the orders were passed assigning any valid reasons and once it was found that petitioner was in illegal possession the order of eviction was rightly passed.

5. Heard learned counsel for the parties and perused the records.

6. From perusal of the record it is clear that even the cross examination of

the Lekhpal was not completed and thereafter without assigning any valid reasons and by non speaking order an order of eviction has been passed by the respondent no.2 against the petitioner. The appeal filed against the aforesaid order was also rejected without going through the averments made in the memo of appeal.

7. In this view of the matter, the Court is of the opinion that both the orders passed by the respondent no.2-Tehsildar, Tehsil Mant, District Mathura as well as respondent no.1-District Magistrate, Mathura are liable to be set aside and are hereby set aside.

8. Respondent no.2 is directed to go ahead with the matter from the stage of cross examination and thereafter pass a fresh order in accordance with law taking into consideration the observations made in paragraph-74 in the case of *Rishipal Singh and others Vs. State of U.P. and others* reported in **2023 (1) ADJ 154**.

9. The writ petition is allowed. No order as to cost.

(Prakash Padia,J.)

January 21, 2026
Pramod Tripathi