



2026:AHC:51796

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 1038 of 2026

Kashi And Another

.....Petitioner(s)

Versus

State Of U.P. And 8 Other

.....Respondent(s)

Counsel for Petitioner(s) : Ashok Kumar Dubey

Counsel for Respondent(s) : Anil Kumar Mishra, C.S.C., Pradeep Singh

Court No. - 55

HON'BLE CHANDRA KUMAR RAI, J.

1. Learned counsel for the petitioners states that the petitioner does not want to press prayer no. C made in the instant writ petition.

2. Heard Sri Ashok Kumar Dubey, learned counsel for the petitioners, Sri Anil Kumar Mishra, learned counsel appearing for respondent nos. 5 and 6, Sri Pradeep Singh, learned counsel for the respondent no. 8 and Sri T.P. Gupta, learned Standing Counsel for the State respondents.

3. The instant writ petition has been filed for the following relief:-

"A. a writ, order or direction, in the nature of certiorari to quash/set aside the impugned orders dated 8.12.2025 and 6.10.2025 passed by respondent no.2 in Second Appeal No. 1104/2025, Computer Case No. AL20251666001104, Kashi and another Vs. State of U.P. and others, U/s 208 U.P. Revenue Code, 2006, whereby, the application dated 8.12.2025 filed by the petitioners for extension of continued extended interim order dated 4.8.2025 has been rejected and further allowed the stay vacation application dated 25.8.2025 filed by the respondent no.5 and 6.

B. a writ, order or direction, in the nature of mandamus, directing the respondents/authorities not to give effect to the order dated 29.07.2024 passed the Additional Commissioner, Vindhyachal Division, Mirzapur in Case No.111 of 2024,

Computer Case No.C202416000000111, titled as Kashi and anothers v. Sudhwant and others, decree dated 21.10.2023 passed by the Sub Divisional Magistrate/Assistant Collector, 1 Class, Tehsil-Obra, District-Sonbhadra, passed in Case No.T202216660401164 of 2021, titled as Sudhwant v. Kashi and others, order dated 20.10.2023 passed by the Sub Divisional Magistrate/Assistant Collector, 1st Class, Tehsil-Obra, District-Sonbhadra, passed in Case No.1164 of 2022, Computer Case No. T202216660401164, titled as Sudhwant v. Kashi and others, till the final adjudication of pending Second Appeal No.SA/1104/2025/Sonebhadra, Computer Case No.AL20251666001104, Kashi and another v. State of U.P. through its Secretary, Lucknow and others, under Section 208 of the U.P. Revenue Code, 2006.

C. a writ, order or direction, in the nature of mandamus commanding and directing the respondent no.2 to incorporate the substantial questions of law as framed by the appellants /petitioners in the second appeal no.1104/ 2025 from sl. no.A to EE in the memo of second appeal in addition to the framed one substantial question of law in the order dated 4.8.2025."

4. Learned counsel for the petitioners submitted that the second appeal filed on behalf of the petitioners arising out of suit for partition has been admitted after framing substantial questions of law, and the parties were directed to maintain status quo vide order dated 04.08.2025. It is further submitted that the interim order dated 04.08.2025 passed by the Board of Revenue was time-bound. However, on the subsequent date, the said interim order was not extended by the Board of Revenue. He submits that once the interim order was granted after admission of the second appeal, the same ought to have been continued during the pendency of the appeal rather than refusing to extend it on misconceived grounds accordingly, the Board of Revenue may be directed to pass appropriate orders extending the interim relief during the pendency of the second appeal.

5. On the other hand, Sri Anil Kumar Mishra, learned counsel appearing for respondent nos. 5 and 6, submitted that an application for vacation of

the interim order was filed on behalf of respondent nos. 5 and 6, which has been considered by the Board of Revenue accordingly, the interim order directing the parties to maintain status quo was not extended by the Board of Revenue. He further submitted that the petitioners executed a sale deed of the disputed plot after passing of the judgment and decree in the first appeal, therefore petitioners are not entitled to any interim relief during the pendency of the second appeal before the Board of Revenue. It is also submitted that the partition suit was rightly decreed by the trial court and the decree has been affirmed in appeal by the Commissioner. He further contends that a writ petition against an interim order passed during the pendency of a second appeal is not maintainable as the appellate court is competent to vacate/modify/continue the interim order during the pendency of the appeal. He further submitted that the present writ petition seeking interim relief at every stage of the proceedings cannot be entertained.

6. I have heard the learned counsel for the parties and perused the record.

7. There is no dispute regarding the fact that the second appeal filed by the petitioners has been admitted after framing substantial questions of law and the parties were directed to maintain status quo till the next date fixed.

8. This Court in earlier writ petition filed by the petitioners has already directed for expeditious disposal of the aforementioned second appeal as such it would be appropriate that the second appeal itself be decided on merits expeditiously and the interim order which was granted after hearing both the parties should be maintained by the Board of Revenue during the pendency of the appeal.

9. Considering the entire facts and circumstances of the case, the instant writ petition is finally **disposed of** with a direction to the Board of Revenue, Allahabad, to decide the aforementioned second appeal within a period of two months from the date of production of a certified copy of this order. It is further directed that till the disposal of the aforesaid second appeal, the parties shall maintain status quo with respect to the

nature and possession of the plot in question. It is further directed that no third-party interest shall be created by the parties in respect of the disputed property during the pendency of the second appeal before the Board of Revenue.

(Chandra Kumar Rai,J.)

March 13, 2026
Sushma