



2026:AHC:25353

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 499 of 2026

Mehndi Hasan And 3 Others

.....Petitioner(s)

Versus

State Of U.P. And 7 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Subodh Kumar, Udit Chandra
Counsel for Respondent(s)	:	C.S.C., Sher Bahadur Singh

Court No. - 55

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Sri Subodh Kumar, learned counsel for the petitioner, Sri Muneshwar Singh, learned standing counsel for the state-respondents and Sri Sher Bahadur Singh, learned counsel for the respondent-gaon sabha.

2. The instant writ petition has been filed for the following reliefs:-

"(i) Issue an interim order, staying the effect and operation of the impugned judgment dated 30.11.2002 (Annexure No.3) and 16.2.2022 (Annexure No.4);

(ii) Issue a writ, order or direction in the nature of mandamus, commanding the respondents not to dispossess the petitioners from the land in dispute bearing Gata No.1267, area 1.12 acre, village Neoria, Hussainpur, District Pilibhit and during pendency of the second appeal before the Board of Revenue."

3. Counsel for the petitioners submitted suit under Section 229-B of the U.P. Z.A. & L.R. Act filed by respondent no.3, was decreed by the trial court in illegal and arbitrary manner. He submitted that appeal under Section 331(3) of the U.P. Z.A. & L.R. Act, filed by the father of the petitioners, was entertained and interim order was granted in the year 2002 which remained in operation till the pendency of the appeal before the Commissioner in the year 2022. He placed paragraph no.11 of the writ petition in order to demonstrate that the interim order

was operating during pendency of appeal before the Commissioner. He submitted that appeal filed by petitioner was ultimately dismissed in arbitrary manner. He submitted that the second appeal filed by the petitioner, has been admitted after framing substantial questions of law but no interim order has been granted. He submitted that appropriate direction be issued for disposal of the pending second appeal and till the pendency of the second appeal, interim order for maintaining status quo be granted in the matter. He placed reliance on the decision of the Apex Court reported in **(1982) 3 SCC 484, Mool Chand v. Raza Buland Sugar Company Limited** and that of this Court reported in **2007 (102) RD 498, Ali Sher Vs. State of U.P. Through Collector, Bijnor and Others** in support of his arguments.

4. On the other hand, learned standing counsel and the counsel for the respondent-gaon sabha submitted that the second appeal along with an application for interim relief, filed before the Board of Revenue is pending, as such, petitioner should press his pending second appeal as well as the application for interim relief before the Board of Revenue rather writ petition before this Court.

5. I have considered the arguments advanced by learned counsel for the parties and perused the records.

6. There is no dispute about the fact that the second appeal, arising out of the suit under Section 229-B of the U.P. Z.A. & L.R. Act has been admitted before Board of Revenue but no interim order has been passed on the accompanying stay application by the Board of Revenue.

7. This Court in the case of **Ali Sher** (supra) has held that the interim protection be granted during pendency of appeal / revision if the order under appeal and revision has serious civil consequences. Paragraph Nos.4 & 5 of the judgment is relevant which is as follows:

"4. It is well settled that once an appeal or revision is entertained by a higher Court against an order having civil consequences stay normally should be granted to avoid swinging pendulum unless the Court for the reasons to be

recorded finds that there is no case for grant of stay as observed by the Hon'ble Apex Court in the case of **Mool Chand v. Raza Buland Sugar Industries.**"

5. Considering the facts and circumstances, impugned order dated 16.11.2006 is hereby quashed. Writ petition stands allowed. Appellate Court is directed to disposal of the appeal of petitioner in accordance with law as expeditiously as possible preferably within a period of two months from the date of production of certified copy of this order before him and till the disposal of appeal as directed above, parties shall maintain status quo with regard to nature and possession over the land in dispute."

8. Considering the facts and circumstances of the case and in view of the ratio of law laid down by Hon'ble Apex Court in **Mool Chand** (supra) as well as this Court in **Ali Sher** (supra), the instant writ petition is disposed of, with the direction to respondent no.2/Board of Revenue, U.P. at Prayagraj to decide the pending Second Appeal No.1853 of 2022, as expeditiously as possible, preferably within a period of 4 months, from the date of production of a certified copy of this order before the authority concerned, after affording proper opportunity of hearing to the parties concerned, in accordance with law. It is further directed that till the disposal of the aforementioned second appeal, parties are directed to maintain status quo with respect to nature and possession of the plot in question. Notice has not been issued to the private respondents in this writ petition as the second appeal is pending before the Board of Revenue, as such, private respondents are at liberty to file a recall application, if they will have any grievance against this order.

February 5, 2026

C.Prakash

(Chandra Kumar Rai,J.)