



2026:AHC:34970

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 539 of 2026

Haider Ali Kazim Alias Asad Kazim

.....Petitioner(s)

Versus

State Of U.P. And 29 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Gulrez Khan, Javed Husain Khan, Sr. Advocate
Counsel for Respondent(s)	: Azad Rai, C.S.C., Kamlesh Kumar Tiwari, Shivendra Bahadur Singh

Court No. - 55

HON'BLE CHANDRA KUMAR RAI, J.

1. Short counter affidavit filed on behalf of private respondent is taken on record.

2. Heard Mr. W.H. Khan, learned Senior Counsel assisted by Mr. Gulrez Khan, learned counsel for the petitioner, Mr. Atul Dayal, learned Senior Counsel assisted by Mr. Kamlesh Kumar Tiwari as well as Mr. Shivendra Bahadur Singh, learned counsel for the plaintiff respondent nos.4 to 7 and Mr. Azad Rai, learned counsel for the respondent- Gaon Sabha.

3. Brief facts of the case are that the suit under Section 229-B of U.P. Zamindari Abolition and Land Reforms Act, 1950 (hereinafter referred to as "U.P.Z.A. & L.R. Act") was filed by predecessor of contesting respondents. The aforementioned suit was dismissed by the trial Court vide judgement and decree dated 3.8.2023. Against the judgement and decree of trial Court dated 3.8.2023, appeal under Section 207 of U.P. Revenue Code, 2006 along with stay application was filed before Commissioner. The aforementioned appeal was heard and dismissed finally by Additional Commissioner (Judicial), Prayagraj vide order dated 24.12.2025. Against the judgement and decree of first appellate Court as well as trial Court, second appeal has been filed by contesting respondent along with stay application. In the aforementioned second appeal, petitioners have filed their caveat. Board of Revenue under the impugned order dated 19.1.2026 stayed the operation of the orders dated 24.12.2025 and 3.8.2023 as well as directed the parties to maintain status quo and not

to create third party interest in respect to the disputed plot. Hence this writ petition for the following relief:

"I. Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 19.01.2026 passed by the Judicial Member Board of Revenue, Prayagraj/ respondent no.3 in Second Appeal No. 245/2026 (Computerized Case No. AL2026024200245) Ali Kazim and others Vs. Irshad Kazim and others under section 208 of U.P. Revenue Code, 2006."

4. Learned Senior Counsel for the petitioner submitted that no interim order / stay order can be granted in the judicial proceeding unless three ingredients for grant of interim injunction during pendency of proceeding is made out. He further submitted that the suit under Section 229-B of U.P.Z.A. & L.R. Act filed by predecessor of contesting respondents has been dismissed and decree of trial Court has been maintained in appeal, as such, there is no ground for grant of interim protection staying the judgement and decree of two Court as well as direct to maintain status quo and no third party interest be created by the parties. He further submitted that during pendency of the first appeal interim injunction was granted by the first appellate Court, accordingly in writ petition filed on behalf of petitioner, the order granting interim injunction has been stayed by this Court. He further submitted that the argument advanced on behalf of petitioners before the Board of Revenue for rejecting the prayer for interim relief has not been taken into consideration by the Board of Revenue, as such, impugned order granting interim protection before the Board of Revenue should be set aside. He further placed the judgement of Hon'ble Supreme Court in the case of **Ajendra Prasadji Narendra Prasadji Pandey Vs. Swami K. Narayandasji and others (2005) 10 SCC 11** in order to demonstrate without considering the three ingredients for grant of injunction, the injunction cannot be granted by the court concerned.

5. On the other hand, learned Senior Counsel appearing for respondent nos.4 to 7 submitted that the second appeal filed by contesting respondents has been admitted after framing the substantial questions of law, as such, there is no illegality in grant of interim order in the second appeal by the Board of Revenue. He further submitted that no interference

is required against the interim order granted in admitted second appeal. He further submitted that it is not necessary that detailed reason should be assigned while granting interim order in second appeal rather framing of substantial questions of law in the second appeal is sufficient for grant of interim injunction / interim order in the second appeal. He further submitted that the petitioners have executed a registered sale-deed on 9.9.2025 in respect to the plot in question, which is annexed along with short counter affidavit dated 16.2.2026, as such, interim protection is must in order to protect the disputed property during pendency of the litigation before the Court. He place reliance upon the judgement of Apex Court reported in **1982 (3) SCC 484, Mool Chand Yadav vs. Raza Buland Sugar Company Limited** in support of his argument.

6. I have considered the argument advanced by learned counsel for the parties and perused the records.

7. There is no dispute about the fact that the suit under Section 229-B of U.P.Z.A. & L.R. Act filed by predecessor of contesting respondent has been dismissed by trial Court and decree of trial Court has been maintained in first appeal. There is also no dispute about the fact that the second appeal filed by private respondent has been admitted and interim protection has been granted.

8. It is material to mention that the suit under Section 229-B of U.P.Z.A. & L.R. Act has been dismissed by the trial Court and decree has been maintained in appeal, as such, Board of Revenue should record the reasons for granting interim injunction / interim order in second appeal specially when opposite parties have put in appearance and raising objection against the grant of interim order.

9. The argument has also been advanced on behalf of petitioner that due to extraneous consideration the interim order has been passed by learned Member Board of Revenue who has retired on 31.1.2026 Learned Counsel for the private respondents submitted that there is no material for extraneous consideration as such argument is misconceived.

10. Considering the entire facts and circumstances of the case, the part of the impugned order dated 19.1.2026 passed by respondent no.3 / Board of

Revenue by which interim order / interim injunction have been granted in favour of the contesting respondent of the instant writ petition is liable to be set aside and the same is hereby set aside. The part of the impugned order dated 19.1.2026 by which second appeal has been admitted after framing substantial questions of law is hereby maintained.

11. The writ petition stands ***allowed in part.***

12. Respondent no.3/ Board of Revenue, U.P., Prayagraj is directed to consider the application for interim relief / interim injunction filed by contesting respondent (appellant of second appeal before Board of Revenue) after affording opportunity of hearing to both parties and recording reason in support of the order for grant / refusal of interim order in the second appeal. The Board of Revenue shall conclude the aforementioned exercise regarding interim relief within period of three weeks from the date of production of certified copy of this order.

(Chandra Kumar Rai,J.)

February 17, 2026

Rameez