



2026:AHC:64720-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 11623 of 2026

Smt Afroz

.....Petitioner(s)

Versus

State Of Uttar Pradesh And Another

.....Respondent(s)

Counsel for Petitioner(s)	:	Sahab Ali
Counsel for Respondent(s)	:	C.S.C., Shyam Mani Shukla

Court No. - 21

**HON'BLE MAHESH CHANDRA TRIPATHI, J.
HON'BLE KUNAL RAVI SINGH, J.**

1. Heard Sri Sahab Ali, learned counsel for the petitioner, Sri Anand Bhaskar Srivastava, learned Standing Counsel on behalf of the State-respondents and Sri Shyam Mani Shukla, learned counsel has accepted notice on behalf of Nagar Nigam.

2. The instant writ petition has been filed inter alia for the following relief :

"i). Issue a direction, order or writ in the nature of Certiorari, call for the record and quash the 2, impugned order dated 31.12.2025 passed by the respondent no. namely, Municipal Commissioner, Nagar Nigam Bareilly, District Bareilly

ii). Issue a direction, order or writ in the nature of Mandamus, directing the respondent no. 2 to open the seal and lock of the aforesaid shop of the petitioner and not to interfere in its peaceful usage.

iii). To award the cost of the petition to the petitioners."

3. Learned counsel for the petitioner submits that the petitioner is running the shop bearing Shop No.1535/5/216 situated at Civil Lines, Station Road, District Bareilly. Once, the respondent-Authority has sealed and locked the shop in question, the petitioner has preferred Writ C No.30600 of 2025 wherein it was claimed that the petitioner has purchased the property from the successor of late Navi Ahmad on 29.02.2020. The proceedings were drawn by the Nagar Nigam bearing Case No.6 of 2008; *State of U.P. through Municipal Commissioner, Nagar Nigam Bareilly*

vs. *Mohd. Navi Ahmad*, before the Prescribed Authority/City Magistrate, Bareilly. The said proceeding has been drawn under the Public Premises Act, 1971 (in short 'Act, 1971') but during the pendency of the case, Mohd. Navi Ahmad died and the case was decided ex parte on 29.09.2021 against the dead person. The petitioner being owner of the property in dispute filed an application for impleadment in the said case but the prescribed Authority did not pass any order on the application on 29.09.2021 and allowed the case in favour of the Nagar Nigam, Bareilly. The petitioner being aggrieved by the said order dated 29.09.2021 preferred an appeal before the District Judge, Bareilly bearing Appeal No.5(21) of 2022, which was allowed by learned District Judge, Bareilly on 11.07.2025 on the premise that as the Prescribed Authority had passed an order against a dead person, the proceeding stood abated.

4. In this backdrop, learned counsel for the petitioner submits that during the pendency of the appeal, the shop was sealed but since the appellate proceeding stood decided in favour of petitioner, therefore, the lock & seal are illegal and liable to be removed. Learned counsel for the petitioner further submits that till date, the Prescribed Authority has not taken any fresh recourse under the Act, 1971 against the petitioner to initiate any fresh proceeding. The order passed by the District Magistrate in response to the order dated 11.09.2025 would have no bearing in the instant matter as the prescribed Authority has to take a recourse under the Act, 1971.

5. Per contra, learned Standing Counsel has resisted the relief and states that the petitioner has encroached upon the public utility land, which is adjacent to the road. In response to the order passed by the Division Bench, the claim of the petitioner has been decided by the Municipal Commissioner, Nagar Nigam, District Bareilly. So far as the jurisdiction is concerned, the same has been conferred by the Division Bench and as such, the respondent no.2 has every right to take a final call on the said application. The order impugned does not require any interference from this Court.

6. We have heard the rival submissions and perused the record.

7. We find that the order passed by the learned District Judge in the appeal bearing Appeal No.5(21) of 2022 was allowed by the District Judge, Bareilly on 11.07.2025, on the premise the proceeding has already been abated qua Mohd. Navi Ahmad, who was the predecessor in interest of the property in question. Admittedly, during the pendency of the proceeding before the City Magistrate, the property was passed on to the petitioner who was never impleaded in the said case and as such the appellate Authority under the Act, 1971 had rightly observed that the proceeding stood abated qua Mr. Mohd. Navi Ahmad as he died during the pendency of the said proceeding and as such the order dated 29.09.2021 passed by the prescribed Authority/City Magistrate is an ex parte order. It is also reflected from the record that till date, the Authority, even though has discretion to proceed under the Act, 1971 against the petitioner, but no such effort has been made.

8. Considering the facts and circumstances, merely on the basis of the order passed by the Municipal Commissioner, Nagar Nigam, Bareilly dated 31.12.2025, the shop of the petitioner cannot be sealed/locked. Accordingly, the order impugned is **set aside** and the direction is issued to the respondent-Authority to open the seal and lock of the shop in question forthwith. However, this order would not come in the way to the prescribed Authority to proceed under the Act, 1971 qua the petitioner, but only in accordance with law.

9. With the aforesaid observation, the writ petition is partly **allowed**.

(Kunal Ravi Singh,J.) (Mahesh Chandra Tripathi,J.)

March 28, 2026

Priya