



2026:AHC:55458

## HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 5608 of 2026

Dilshad And Another

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

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Counsel for Petitioner(s) : Mohd. Arif

Counsel for Respondent(s) : C.S.C., Kaushal Kishore Mani

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**Court No. - 6**

**HON'BLE PRAKASH PADIA, J.**

1. It is admitted between the counsel for the parties that identical orders passed by the same authority on the same date has taken into consideration by this Court in large number of writ petitions. In Writ C No.40691 of 2025 (Kurban vs. State of U.P. and 4 Others), the order dated 09.03.2026 was passed by this Court by which the aforesaid writ petition was allowed and following order was passed on 09.03.2026:-

*"1. Following order was passed on 16.01.2026:-*

*1. Heard Sri Mohd. Arif, learned counsel for the petitioner, Sri Azad Rai holding brief of Sri Kaushal Kishore Mani, learned counsel for respondent no.5/Gram Sabha and learned Standing Counsel for the State-respondents.*

*2. The present writ petition has been filed challenging the orders dated 18.06.2025 passed by the Tehsildar, District Saharanpur in Case No.5439 of 2022 as well as order dated 28.08.2025 passed by the Additional Collector (Judicial), Saharanpur in Case No.3544 of 2025, by means of which, an order for eviction has been passed against the petitioner with regard to Khasra No.53 area 0.001539 hectare. Furthermore, a penalty of Rs.10,200/- as well as execution fees of Rs.1000/- has been imposed upon the petitioner. The said order dated 18.06.2025 has been confirmed by the appellate court by means of order dated 28.08.2025.*

*3. Learned counsel for the petitioner submits that a bare perusal of the*

*notice issued against the petitioner under Section 67(1) of the U.P. Revenue Code, 2006 would show that the petitioner has allegedly occupied 0.001539 hectare in Khasra No.53 by constructing a permanent house over the alleged encroached area. He has further relied upon the survey map that has been attached along with notice to contend that the survey map is not correctly made as the map does not denote any fixed point, on the basis of which, the said survey was carried out. He further submits that such a survey map is non est as it does not conform to any of the survey rules or procedure as applicable to survey proceedings with regard to revenue proceedings. He has further relied upon the judgment passed in Rishi Pal Singh and others vs. State of U.P. and others; 2023 1 ADJ 154 and has submitted that in the said judgment, detailed procedure has been provided where as to how proceedings under Section 67 are to be carried and as to how the reports as well as survey ought to be done. He submits that there is complete violation of the said order and, as such, the impugned orders are per se illegal and arbitrary.*

*4. Per contra, learned Standing Counsel has submitted that the impugned orders do not suffer from any illegality, the encroached area was recorded as "Jauhad" in the revenue records and, as such, the petitioner has no right with regard to the said area.*

*5. Matter requires consideration.*

*6. Respondents are granted four weeks' time to file counter affidavit. Two weeks', thereafter, is granted to the learned counsel for the petitioner to file rejoinder affidavit.*

*7. Connect and list this matter on 09.03.2026 along with Writ C No.40488 of 2025; Naseer vs. State of U.P. and 4 others.*

*8. Till the next date of listing, the operation and effect of the impugned orders dated 18.06.2025 and 28.08.2025 shall remain stayed. Petitioner is also restricted from making any new construction on the spot or from creating any third party right over the same.*

*2. No counter affidavit has been filed till date.*

*3. It is admitted between learned counsel for the parties that the order*

*impugned has been passed in complete violation of law laid down by this Court in the case of **Rishipal Singh and others Vs. State of U.P. and others** reported in 2023 (1) ADJ 154.*

*4. In view of the same, since the order dated 18.06.2025 passed by the respondent No.4/Tehsildar, District Saharanpur as well as order dated 28.08.2025 passed by the Additional Collector (Judicial), Saharanpur/respondent No.3 were passed in complete violation of procedure prescribed in the case of Rishipal (supra) hence same are liable to be quashed and are hereby quashed.*

*5. With the aforesaid observations, the writ petition is allowed. No order as to costs.*

*6. The respondent no.4 is directed to pass fresh order in accordance with law expeditiously. "*

2. Controversy involved in the present case is identical, hence the petitioners are entitled for the same relief.

3. In this view of the matter, the present writ petition is **disposed of** in terms of the judgment and order dated 09.03.2026 passed in **Writ C No.40691 of 2025 (Kurban Vs. State of U.P. and 4 others)**.

**(Prakash Padia,J.)**

**March 18, 2026**

Swati