



2026:AHC:55506-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 7360 of 2026

Hari Shankar And 9 Others

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Om Narayan Dwivedi, Pradeep Kumar Srivastava
Counsel for Respondent(s)	: C.S.C.

Court No. - 40

**HON'BLE SARAL SRIVASTAVA, J.
HON'BLE SUDHANSHU CHAUHAN, J.**

1. Heard learned counsel for the petitioners and learned Standing Counsel for the State respondents.

2. The petitioner by means of the present writ petition has prayed for the following reliefs:-

(i) *Issue a writ, order or direction in the nature of certiorari quashing the impugned ex-parte order dated 27.11.1982 passed by respondent No. 4 (Annexure No.4 to this writ petition).*

(ii) *Issue a writ, order or direction in the nature of mandamus commanding the respondents to return the surplus land 3132.08 Sq. Mt. situated at Village Chak Pure Miyan Khas, Pargana and Tehsil Karchhana, District Prayagraj to the petitioners.*

3. The petitioners are descendants of one, Pahal, the original land holder amongst others of land comprised in Gata No. 65 in Village Chak Pure Miyan Khurd and Gata No. 85 in Village Rahi Ta Pawri. According to the petitioners, despite the proceedings under the Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter referred to as the "Act, 1976"), the petitioners continues to remain in possession of the land, which was declared surplus.

4. In support of their contention, the petitioners have relied upon a report dated 27.01.2026 of the Revenue Lekhpal, which is on record at page no. 52 of the writ petition and reads as under:—

"उपरोक्त आ०स० का स्थलीय निरीक्षण किया गया। स्थलीय निरीक्षण में यह पाया गया कि ग्राम चकपुरेमिया

खुर्द के आ०सं० 13 नि० पर वर्तमान में कृषि कार्य हो रहा है तथा वर्तमान में गेहूं की फसल बोई गई है आ०सं० 65 के जूज रकबे पर पक्का मकान बना हुआ है तथा शेष रकबे पर कृषि कार्य हो रहा है। ग्राम रेही ता० पवरी के आ०सं० 84 में भी जुज रकबे पर मकान बना है तथा शेष रकबे पर कृषि कार्य हो रहा है। स्थल फोटो ग्राफ संलग्न है।"

5. This Court, by order dated 24.02.2026, directed the learned Standing Counsel to verify the authenticity of the report dated 27.01.2026 submitted by the Lekhpal, as reproduced above. Sri Mohan Srivastava, learned Standing Counsel, on the basis of instructions, states that the said report of the Lekhpal is correct. The instructions are taken on record.

6. We have perused the instructions submitted by the competent authority, Urban Ceiling, Prayagraj, wherein it is stated that for the purpose of verification of report of Lekhpal dated 27.01.2026 a local spot inspection of the land was carried out by Sub Divisional Magistrate, Karchana, Prayagraj, who had submitted his report dated 16.03.2026 in that regard.

7. The aforesaid report dated 16.03.2026 is duly annexed with the instructions and the relevant part thereof reads as under :-

"तत्कम में अवगत कराना है कि उक्त प्रकरण की जांच तहसीलदार करछना के माध्यम से करायी गयी, जांच आख्या मूलरूप से साथ में संलग्न है। तहसीलदार करछना ने अपनी जांच आख्या के माध्यम से अवगत कराया है कि आदेश के अनुपालन में संलग्न लेखपाल की आख्या दिनांक 27.01.2026 का भौतिक सत्यापन क्षेत्रीय लेखपाल के साथ किया गया। जांच में पाया गया कि क्षेत्रीय लेखपाल द्वारा प्रेषित आख्या दिनांक 27.01.2026 सही है। इसके अतिरिक्त मांगी गयी अन्य सूचना इस प्रकार है।

ग्राम रेही ता० पवरी, स्थित गाटा संख्या 85 राजस्व अभिलेख खतौनी में दो खातों में विभक्त है। गाटा संख्या 85 मि० रकबा 0.0100 हे० भूमि, नगर भूमि सीमा रोपड़ के नाम व गाटा संख्या 85 मि० रकबा 0.1400 हे० भूमि अतुल कुमार सिंह व अन्य सहखातेदार के नाम बतौर संक्रमणीय भूमिधर दर्ज हैं। गाटा संख्या 85 मि० रकबा 0.0100 हे० नगर भूमि सीमा रोपड़ वाली भूमि पर भी हरी शंकर पुत्र पोहल व इनके परिवार के सदस्यों द्वारा वर्तमान में भी गेहूं की फसल बोई गयी है।

ग्राम चकपूरे मियाखुर्द की आराजी संख्या 65 रकबा 0.2990 हे० राजस्व अभिलेख खतौनी एक ही खाते में दर्ज है, जो नगर भूमि सीमा रोपड़ के नाम दर्ज है। 'आराजी संख्या 65 उपरोक्त के अतिरिक्त अन्य खाते में दर्ज होना नहीं पाया गया। "

8. Under the circumstances, when we revert to the facts stated in the writ petition, it is contended that the predecessor of the petitioners, late Pohal, was the recorded tenure holder of Gata No. 65 in Chak Pure Miyan Khurd and Gata No. 85 in Village Rahi Ta Pawri. The perusal of the report of the Lekhpal dated 27.01.2026 reveals that Gata No. 65 measuring 0.2990 hectare is although recorded as, urban ceiling land, in the revenue records

but a house has been constructed over the same and agricultural activities are taking place in the remaining land comprised in the said gata. Further, from the report of the Sub Divisional Magistrate, Karchana, Prayagraj dated 16.03.2026, it is revealed that Gata No. 85-M measuring 0.0100 hectare, although is recorded as urban ceiling land in the revenue records but Hari Shankar son of Pohal and his family have grown crop of wheat over the said land.

9. It is pointed out that Hari Shankar is the petitioner no. 1 in the present writ petition. As far as the remaining land comprised in Gata No. 85-M measuring 0.1400 hectare is concerned, the same is recorded in the name of Atul Kumar Singh and other co-tenure holders as bhumidhar with transferable rights in the revenue record.

10. Hence, from the showing of the respondents themselves, the petitioners have constructed a house over the entire Gata No. 65 and are carrying out agricultural activities thereon, while the petitioners are carrying out agricultural activities over 0.100 hectare of land in Gata No. 85, both recorded as ceiling land. Thus, it is beyond doubt that the petitioners who are the descendants of late Pohal continue to remain in possession of the land in question.

11. Learned Standing Counsel, however, contends that the petitioner is challenging the proceedings under the Act, 1976 on the ground of lack of knowledge, whereas the record indicates that the petitioner had knowledge of the said proceedings and did not challenge the same at the appropriate stage therefore, the writ petition is liable to be dismissed on the ground of delay and laches.

12. Be that as it may, once the respondents themselves admit, on the basis of the Lekhpal's report and instructions that the petitioners continue to be in physical possession of the land declared surplus, the entire proceedings under the Urban Land (Ceiling and Regulation) Act, 1976 stand abated in view of the Repeal Act, 1999. Once the possession of the petitioners over the land in question is admitted, we feel that it would be inappropriate to reject their claim solely on the ground of delay.

13. The Apex Court in this regard in the case of ***State of Uttar Pradesh Vs. Hari Ram***, AIR 2013 SC 1793 had held as under :-

"18.2 Having held thus, this Court concluded by establishing the proper scope of application of Section 4 of the Repealing Act, as under:

"Effect of the Repeal Act

41. Let us now examine the effect of Section 3 of Repeal Act 15 of 1999 on sub-section (3) of Section 10 of the Act. The Repeal Act, 1999 has expressly repealed Act 33 of 1976. The objects and reasons of the Repeal Act have already been referred to in the earlier part of this judgment. The Repeal Act has, however, retained a saving clause. The question whether a right has been acquired or liability incurred under a statute before it is repealed will in each case depend on the construction of the statute and the facts of the particular case.

42. The mere vesting of the land under sub-section (3) of Section 10 would not confer any right on the State Government to have de facto possession of the vacant land unless there has been a voluntary surrender of vacant land before 18-3-1999. The State has to establish that there has been a voluntary surrender of vacant land or surrender and delivery of peaceful possession under sub-section (5) of Section 10 or forceful dispossession under sub-section (6) of Section 10. On failure to establish any of those situations, the landowner or holder can claim the benefit of Section 4 of the Repeal Act. The State Government in this appeal could not establish any of those situations and hence the High Court is right in holding that the respondent is entitled to get the benefit of Section 4 of the Repeal Act."

Hence, it was held that the land holder of the land may claim the benefit of Section 4 of the Repeal Act, 1999 if de-facto has yet not been transferred either through voluntary surrender, peaceful transfer under Section 10(5) or forceful dispossession under Section 10(6) of the Act, 1976.

14. Further, the Apex Court in the case of **A.P. Electrical Equipment Corporation Vs. Tehsildar, AIR Online 2025 SC 302** had observed as under :-

"20. Thus, by virtue of the provisions of Section 3 of the Repeal Act, 1999, if possession of vacant land has been taken over on behalf of the State Government before the coming into force of the Repeal Act, 1999, the repeal of the Principal Act would not affect the vesting of such land under sub-section (3) of Section 10 of Act, 1976. Hence, the issue as to whether actual possession of land declared excess under the Act has been taken over or not assumes great at significance after the coming into force of the Repeal Act, 1999 inasmuch as if possession has not been taken over, the proceedings would abate under Section 4 of the Repeal Act, 1999 and the ownership of the land, if vested in the State Government under Section 10(3) of the Act, 1976 would be required to be restored to the original landholder subject to repayment of any amount that has been paid by the State Government with respect to such land."

In the present case, the respondents-State itself admits that the petitioners are in possession of the land in question and as such in view of the above, the proceedings under the Act, 1976 would stand abated.

15. Recently a similar view has been taken by the Apex Court in the Case of ***Dalsukhbhai Bachubhai Satasia & Ors. Vs. State of Gujarat & Ors.***, AIR 2026 SC 475 wherein, the court has held as under :-

22.4 Therefore, as per the provisions of Sections 10(3) and 10(5) of the ULC Act, the subject land, despite having 'vested' (along with acquisition of title or interests) in the State Government, was not in the possession of the Government. Further, possession was not taken by any of the three possible means, i.e., voluntary transfer by the appellants, issuance of notice under Section 10(5) to the appellants followed by peaceful transfer or forceful acquisition of possession under Section 10(6) of the ULC Act. The possession of the land continues with the appellants herein till date.

22.5 Such a scenario is clearly one where the provision of abatement under Section 4 of the Repealing Act applies. The proviso to Section 4 states that the section would not apply to proceedings under Sections 11, 12, 13 and 14 of the ULC Act relating to land that has already been taken possession of by the State Government. Therefore, the proviso has no applicability to the facts at hand and the benefit of abatement under the section would apply wholesale.

22.6 That the approach to be had with cases such as the present one is also evident upon a reading of Sections 3 and 4 of the Repealing Act. Clearly, the legislative intent is that in cases where lands were deemed to have been vested but possession was not yet transferred as on date of enforcement of the Repealing Act (such as the present case), the lands were to remain in possession of the private parties. Section 3(2) of the Repealing Act prescribes the procedure to be followed in specific types of situations, i.e., where amounts paid by the State Government must be refunded. This is not so in the present case. However, the underlying concepts are clear - that vesting and possession are distinct and that without the latter, the private parties have a claim over continuing to be in possession. This is subsequently further emphasised in Section 4 of the Repealing Act, as explained earlier under which proceedings abate as a result.

16. As far as the question of delay is concerned it is the specific case of the petitioners that their predecessor Pohal was not served with any notice under the Act, 1976 and it is only recently that the petitioners came to know about the proceedings under the Act, 1976.

17. Hence, as far as question of delay is concerned we would also like to advert to the law laid down by the Apex Court in the case of ***Vidya Devi vs.***

State of Himachal Pradesh & Ors. (2020) 2 SCC 569, wherein it was held as under :-

"12.12. The contention advanced by the State of delay and laches of the Appellant in moving the Court is also liable to be rejected. Delay and laches cannot be raised in a case of a continuing cause of action, or if the circumstances shock the judicial conscience of the Court. Condonation of delay is a matter of judicial discretion, which must be exercised judiciously and reasonably in the facts and circumstances of a case. It will depend upon the breach of fundamental rights, and the remedy claimed, and when and how the delay arose. There is no period of limitation prescribed for the courts to exercise their constitutional jurisdiction to do substantial justice.

12.13. In a case where the demand for justice is so compelling, a constitutional Court would exercise its jurisdiction with a view to promote justice, and not defeat it.

12.14. In Tukaram Kana Joshi v. MIDC, this Court while dealing with a similar fact situation, held as follows : (SCC p. 359, para 11)

"There are authorities which state that delay and laches extinguish the right to put forth a claim. Most of these authorities pertain to service jurisprudence, grant of compensation for a wrong done to them decades ago, recovery of statutory dues, claim for educational facilities and other categories of similar cases, etc. Though, it is true that there are a few authorities that lay down that delay and laches debar a citizen from seeking remedy, even if his fundamental right has been violated, under Article 32 or 226 of the Constitution, the case at hand deals with a different scenario altogether. The Functionaries of the State took over possession of the land belonging to the appellants without any sanction of law. The appellants had asked repeatedly for grant of the benefit of compensation. The State must either comply with the procedure laid down for acquisition, or requisition, or any other permissible statutory mode."

13. In the present case, the Appellant being an illiterate person, who is a widow coming from a rural area has been deprived of her private property by the State without resorting to the procedure prescribed by law. The Appellant has been divested of her right to property without being paid any compensation whatsoever for over half a century. The cause of action in the present case is a continuing one, since the Appellant was compulsorily expropriated of her property in 1967 without legal sanction or following due process of law. The present case is one where the demand for justice is so compelling since the State has admitted that the land was taken over without initiating acquisition proceedings, or any procedure known to law. We exercise our extraordinary jurisdiction under Articles 136 and 142 of the Constitution, and direct the State to pay compensation to the Appellant. "

18. Thus, we do not find any substance in the submission of the learned Standing Counsel regarding delay and laches, inasmuch as the petitioner

continues to be in physical possession of the land even after the enforcement of the Repeal Act, 1999. In such circumstances, the respondents cannot claim any right over the land.

19. Accordingly, for the reasons stated above, the writ petition is **allowed** and the impugned order is hereby set aside. It is held that the proceedings initiated against the petitioner under the Urban Land (Ceiling and Regulation) Act, 1976 stand abated. The petitioner shall continue to remain in possession of the land in question and the respondents are restrained from interfering in the peaceful possession of the petitioner.

20. It is further provided that the petitioner shall be at liberty to file an appropriate application for correction of his name in the revenue records, in accordance with law.

March 17, 2026
Gaurav

(Sudhanshu Chauhan,J.) (Saral Srivastava,J.)