



2026:AHC:38316

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 601 of 2026

Senchan Yadav And Another

.....Petitioner(s)

Versus

Board Of Revenue U.P. District Prayagraj And 3
Others

.....Respondent(s)

Counsel for Petitioner(s)	: Surendra Pratap Singh, Vaishno Poojan Yadav
Counsel for Respondent(s)	: C.S.C., Jaishankar Prasad Tyagi, Lallan Chaubey, Ranjana

Court No. - 55

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Mr. S.P. Singh & Mr. Vaishno Poojan Yadav, learned counsel for the petitioners, Mr. Lallan Chaubey & Ms. Ranjana, learned counsel for respondent nos.2 & 3 and Mr. R.C. Srivastava, learned Additional Chief Standing Counsel for the State-respondents.

2. With the consent of the parties, the instant writ petition is heard and disposed of finally without inviting counter affidavit.

3. Brief facts of the case are that the Naib Tahsildar vide order dated 28.10.2023 in the proceeding under Section 34 of U.P. Revenue Code, 2006 directed to record the name of petitioners (Senchan Yadav and Bechan Yadav) as heirs of Ram Kali wife of Mohan. Against the order of Naib Tahsildar dated 28.10.2023, appeal under Section 35 (2) of U.P. Revenue Code, 2006 was filed by respondent nos.2 & 3 before the Sub-Divisional Officer. The appeal was heard by Sub-Divisional Officer and the same was dismissed vide order dated 2.5.2025. Against the order of Sub-Divisional Officer, revision under Section 210 of U.P. Revenue Code, 2006 was filed by respondent nos.2 & 3 before the Board of Revenue and Board of Revenue vide order dated 23.1.2026 set aside the order of Naib Tahsildar dated 28.10.2023, order of Sub-Divisional Officer dated 2.5.2025 and remitted the matter back before the Court of Tahsildar to decide the proceeding afresh after examining the issue on possession as well as affording opportunity to the parties to lead evidence in accordance

with law. Hence this writ petition for the following relief:

"Issue a writ, of certiorari quashing the impugned order dated 23-01-2026 passed by the Board of Revenue in case/ Revision no. 2309 of 2025 Shivpoojan and others vs. Sanchan Yadav and others under section 210 U.P. Revenue Code, 2006. (Annexure No. 1)"

4. Learned counsel for the petitioners submitted that the Naib Tahsildar has rightly exercised the jurisdiction under Section 34 of U.P. Revenue Code, 2006, which has been maintained in appeal by the Sub-Divisional Officer. He further submitted that the Board of Revenue without affording opportunity to learned counsel for the petitioners appearing before the Board of Revenue has allowed the revision setting aside the order of Naib Tahsildar as well as Sub-Divisional Officer and remitted the matter back for fresh adjudication of dispute which is illegal. He further submitted that on the date the matter was heard by the Board of Revenue there was resolution of the Bar Association for passing no adverse order but Board of Revenue has heard the matter ex-parte and decided the matter under the impugned order. He further submitted that the impugned order passed by the Board of Revenue be set aside and order of Naib Tahsildar/ Sub-Divisional Officer be maintained.

5. On the other hand, learned counsel for respondent nos.2 & 3 submitted that there is no illegality in the impugned order passed by the Board of Revenue remanding the matter before Tahsildar to decide the proceeding afresh in accordance with law. He further submitted that one counsel appearing for the petitioner before Board of Revenue has appeared, as such, the matter was decided by the Board of Revenue. He further submitted that the Naib Tahsildar has not decided the matter in purview of Section 34 of U.P. Revenue Code, 2006, as such, Board of Revenue has remanded the matter before Tahsildar to decide the matter afresh in purview of Section 34 of U.P. Revenue Code 2006 recording finding of possession etc. He further submitted that name of respondent nos.2 & 3 was rightly ordered to be recorded on the basis of Pa ka 11 but Naib Tahsildar has illegally set aside the order and directed to record the name of the petitioners on the basis of succession.

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 Tahsildar has directed to record the name of petitioners under Section 34 of U.P. Revenue Code, 2006, which has been maintained in appeal by Sub-Divisional Officer. There is also no dispute about the fact that the Board of Revenue has set aside the order of Naib Tahsildar as well as Sub-Divisional Officer and remitted that matter again before the Court of Tahsildar to decide the proceeding afresh.

8. One of the argument advanced by learned counsel for the petitioners is that the Board of Revenue without affording opportunity of hearing to the Counsel appearing before Board of Revenue has decided the matter in ex-parte manner. He placed the averment made in paragraph no.30 of the writ petition in order to demonstrate that order of remand has been passed by the Board of Revenue in ex-parte manner. Paragraph no.30 of the writ petition will be relevant for perusal, which is as under:

"30. That after perusal of the entire impugned order the fact and finding which has been given in the remand order by the Board of Revenue is totally without assigning reason and against the law the revision for remanding the matter which has been given in the impugned order is totally already settled by the Trial Court as well as by the Appellate Court and also after perusal of the entire impugned order it is also clear that the said order is passed is behind the back of the petitioners without efforting any opportunity to the petitioner hence, by the impugned order for remanding the matter to the Appellate Court by the respondent no. 1 is totally against the law and in the circumstances by the impugned order of the Revisional Court (Board of Revenue) set aside the order of the Appellate Court as well as by the Trial Court hence, the entry of the PK 11 which was given on the basis of the fraud was reinstated and the petitioners may deprived from his continuous possession and they are still in possession hence, by the impugned order their possession may also be disturbed by the private respondents as well as authority concern hence in these circumstances also impugned order is not permissible under the law."

He also submitted that remand is not required in the matter as Naib Tahsildar has rightly passed the order of mutation in the year 2018, as

such, remand of the mutation proceeding after about 7 years is abuse of process of law rather mutation proceeding should be given finality by the Court exercising jurisdiction under Section 34 of U.P. Revenue Code, 2006.

9. Considering the facts and circumstances of the case particularly on the ground of opportunity of hearing, the matter requires fresh consideration by the Board of Revenue so that learned counsel for both parties may given proper opportunity to argue the matter before the Board of Revenue.

10. Considering the entire facts and circumstances of the case, impugned order dated 23.1.2026 passed by respondent no.1/ Board of Revenue, U.P., Prayagraj is liable to be set aside and the same is hereby set aside.

11. The writ petition stands allowed in part and matter is remitted back before respondent no.1/ Board of Revenue, U.P., Prayagraj to register the revision on its original number and decide the same afresh within period of three months from the date of production of certified copy of this order after affording proper opportunity of hearing to learned counsel for both parties appearing before Board of Revenue.

(Chandra Kumar Rai,J.)

February 20, 2026

Rameez