



2026:AHC-LKO:19798

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 2319 of 2026

Hikka @ Chandr Prakash

.....Petitioner(s)

Versus

State Of U.P. Thru. Addl. Chief Secy., Deptt. Of
Revenue, Lko. And Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Pramendra Kumar Singh
Counsel for Respondent(s)	:	C.S.C., Pankaj Gupta

Court No. - 5

HON'BLE ALOK MATHUR, J.

1. Heard Shri Pramendra Kumar Singh, learned counsel for the petitioner as well as learned Standing Counsel for respondents no. 1 to 3 and 5 and Shri Pankaj Gupta for respondent no.4.

2. In light of proposed order, notice to private respondent, is dispensed with.

3. It has been submitted by learned counsel for the petitioner that the State- respondents had auctioned the lease of the pond, situated at Gata No. 312, 1.121 hectare, situated at village Koyal Khar, Post Itai, Pargana and Tehsil Tulsipur, District Balrampur and auction proceedings were also approved by the Sub Divisional Officer, Tehsil- Tulsipur, District Balrampur on 25.02.2021 and settled in favour of the opposite party no.6.

4. It has been submitted by counsel for the petitioner that the petitioner is also resident of the same village and is Kashyap by caste and is also trained in Fishery Rights and hold the certificate, issued by the Matsya Palak Vikas Agency, Balrampur, on 19.03.2004. He has submitted that the proceeding for the auction were carried out in terms of Section 59 of the U.P. Revenue Code, and the petitioner could not participate, in the said auction and the same has been illegally settled in favour of opposite party no.6.

5. The petitioner had made several representations against the settlement of the rights in favour of opposite party no.6, and as no action was taken, the petitioner was constrained to file the writ petition before this Court bearing Writ C No. 1627 of 2022, Hikka @ Chandra Prakash Vs. State of U.P. through Additional Chief Secretary, Revenue, which was disposed of, by means of order dated 25.11.2024, giving liberty to the petitioner, to file an appeal under Rule 59 of the U.P. Revenue Code Rules, 2016, within a period of one month.

6. It is in pursuance of the order dated 25.11.2024, the petitioner had filed an appeal, before the District Magistrate, Balrampur on 12.12.2024, which has been decided by means of the impugned order dated 22.04.2025.

7. Counsel for the petitioner submitted that the order has been passed by the District Magistrate, Balrampur without considering the grounds raised by the petitioner, nor examining the validity of the auction conducted for the Fishery Rights of the said pond, in favour of respondent no.6. He submitted that neither was there a due publication of the notice nor any proper rules were followed and even the amount for which, the auction was made, was not deposited by the opposite party no.6, the entire proceedings ought to have been set aside.

8. He has further submitted that the petitioner is a better qualified person, for being granted the Fishery Rights and the respondent no.6 ought to have settled the said rights in favour of the petitioner and even this aspect of the matter, was not considered by the District Magistrate, Balrampur and accordingly, has prayed for setting aside of the impugned order dated 22.4.2025, with a further direction that the auction may be settled in favour of the petitioner.

9. Learned Standing Counsel has opposed the writ petition and supported the impugned order.

10. Considering the arguments raised by the petitioner, we find that it is on the direction of this Court in order dated 25.11.2024, that the petitioner had filed an appeal under Section 59 of the U.P. Revenue Code, before the District Magistrate, Balrampur. In the appeal a copy of which, has

been annexed to the writ petition, it has been stated that without following any provision of law, the Fishery Right has been settled in favour of opposite party no.6, and it is only when the petitioner came to know that the rights have been settled in favour of opposite party no.6, he had moved several representations and subsequently a writ petition before this Court. Pursuant to which, he has filed an appeal and in the aforesaid circumstances, he has prayed that his appeal be allowed and the order dated 25.02.2021, by which the Fishery Rights have been settled, in favour of opposite party no.6, be set aside. The District Magistrate while deciding the said appeal, had duly considered the grounds raised by the petitioner and was of the view that all the rules were followed including the fact that opposite party no.6 was fully entitled and eligible for granting Fishery Rights, with regard to the disputed pond.

11. As per the agreement, the opposite party no.6, was required to deposit Rs. 5650/- as the amount of consideration of lease, against which, he has only deposited Rs. 5605/-, which is only to typographical error, apart from which, opposite party no.6, had unequivocally stated that in case, it is found that he is required to deposit Rs. 5650/- then he is ready to deposit the amount of difference but it has been stated by the District Magistrate that it is only due to typographical error that Rs. 5605/- was deposited and accordingly, it has held that such typographical error can not lead to cancellation of the auction already settled, in favour of opposite party no.6. We further find that only vague grounds were taken by the petitioner, by filing the appeal and there was no specific ground raised by him, or facts stated with regard to any infirmity in procedure followed by the respondents, in auctioning the disputed pond. It is only subsequently it seems that some written submissions were filed by the petitioner and now it is the case of the petitioner that the appeal ought to be decided considering the written submissions filed by the petitioner.

12. In this regard, it is noticed that the Appellate Authority is under mandate only to examine the ground and the facts as narrated in the appeal, which are required to fully considered while deciding the appeal, any subsequent written statement cannot substitute the facts stated in the memo of the appeal and even otherwise in the written statements, only the points which are already taken in the appeal can be submitted, by the

appellant, and accordingly it would be a sheer misconduct and abuse of process of law, in case the written submissions go beyond the pleadings and such written submissions cannot be considered while deciding the appeal and consequently, we do not find any infirmity committed by the District Magistrate, by not taking into accounts the averments made in the written submissions, filed by the petitioner which exceed the averments made in the memo of appeal.

13. Accordingly, the ground, raised by the petitioner in this regard is accordingly rejected. We further find that it is not the case that the petitioner was not allowed to participate in the auction, but from his own averments, made in the appeal in paragraph no.4, it is clear that he had not participated in the auction and he had put in appearance with regard to the challenge of the auction only at a subsequent stage as per his own version, he had assailed the validity of the auction only when to keep into no auction. The said statement clearly indicates that the petitioner had never participated in the auction and this is also one of the reasons given by the District Magistrate for rejecting the appeal of the petitioner, in as much as, the petitioner had not even participated in the said auction and accordingly cannot be permitted to assail the validity of the said auction at the subsequent stage.

14. After, perusal of the impugned order as well as the argument on behalf of the petitioner, we do not find any infirmity in the impugned order dated 24.4.2025. The petition is devoid of merits and is, accordingly, ***dismissed***.

(Alok Mathur,J.)

March 18, 2026

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