



2026:AHC-LKO:20228

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 1005332 of 2005

Ram Charan

.....Petitioner(s)

Versus

State Thru Secy. Revenue And 4 Ors.

.....Respondent(s)

Counsel for Petitioner(s) : Pushpa Kumari Mishra, Aasif Razzaque Khan, Ajai, Ashutosh Kumar Srivastava, Puspa Mishra, Vimal Kishore Verma

Counsel for Respondent(s) : C.S.C., Chhote Lal Yadav, D.K. Pathak, Farooq Ayoob, Mohd. Sami, R.N. Gupta

Court No. - 4

HON'BLE IRSHAD ALI, J.

1. Seen office report dated 16.12.2025 whereby it has been reported that notice was issued to opposite party no.4 on 13.11.2025, dispatched on 14.11.2025 has not been received back nor any vakalatnama has been filled till date. Hence, service of notice is deemed sufficient upon opposite party no.4 in view of Chapter VIII Rule 12, Explanation II of the High Court Rules.

2. Heard Shri Ashutosh Kumar Srivastava, learned counsel for the petitioner, learned Standing Counsel appearing for the respondents-State and Shri C.L. Yadav, learned counsel for the respondent no.5.

3. By means of the present writ petition, the petitioner is challenging the order dated 30.5.2005 contained in Annexure-1 to the writ petition.

4. Factual matrix of the case is that the petitioner has become bhumidhar/ owner of the land in question and he is in possession before 30th June, 1975. On the basis of possession, the petitioner had been declared owner of the land in question by the Deputy Director of Consolidation vide order dated 18.9.1991. The lease was granted in favour of the opposite party no.5 on 28.4.1989, which was cancelled and revision u/s 333 of Z.A.L.R. Act was preferred to

Commissioner Faizabad.

Additional Collector, Barabanki finally decided the matter in favour of the petitioner vide order dated 4.9.1997. The Additional Commissioner has passed an order on 30.5.2004 whereby the revision was allowed and respondent no.5 was treated to be grant of lease in his favour genuinely and possession was approved. Challenging the said order, the present writ petition has been filed.

5. Submission of learned counsel for the petitioner is that the petitioner was under possession over the land in dispute since 1975 and in consolidation proceeding, the land was changed as Abadi land and the petitioner was declared as Bhumidar on the land in question, therefore the order passed by the learned Additional Commissioner is not justifiable and not sustainable in the eyes of law.

6. Next submission of learned counsel for the petitioner is that in regard to fact that the petitioner is resident of Village Chheda Pargana Mohammadpur Khala, District Barabanki, recital has been made in paragraph 6 of the writ petition.

7. Next submission of learned counsel for the petitioner is that the said land remained in possession of the petitioner since long and on account of uninterrupted enjoyment of the possession over the said land, petitioner had acquired the Bhumidhari rights on the said land as provided in 122(B) U.P.Z.A. Act because the petitioner belongs to Scheduled Caste community and he is the landless agricultural labour also.

8. Next submission of learned counsel for the petitioner is that the Deputy Director of Consolidation on 18.9.1981 despite all that the lease was granted in favour of opposite party no.5 which was cancelled on 4.9.1997 by opposite party no.3 and a revision under Section 333 Z.A.L.R. Act was preferred to the Commissioner, Faizabad by opposite party no.5 i.e. Gabba and it was referred on 9.5.1995 to the Board of Revenue Allahabad as reference which was remanded to Additional Collector, Barabanki to decide the matter in accordance with law and it was decided on 4.9.1997 by the Additional

Collector, Barabanki in favour of the petitioner

9. Next submission of learned counsel for the petitioner is that the Additional Commissioner on the erroneous finding recorded, has held that the petitioner is not resident of the village where the land situates and held that he is not necessary party to be heard in opposition which is not sustainable in the eyes of law. He further came to the conclusion that lease was granted to respondent no.5, but the papers regarding approval of the lease to respondent no.5 is not available nor the respondent no.5 claimed that lease was approved by the Collector, therefore the order is perverse in nature and is liable to be set aside.

10. On the other hand, learned counsel for the respondents submits that the finding recorded by the Commissioner does not suffer from infirmity or illegality and the order is just and valid order.

11. Learned counsel for the respondents next submits that finding has return that the petitioner is not resident of village in question, therefore he has no right to contest the case.

12. Learned counsel for the respondents lastly submits that the order passed by the Additional Commissioner is just and valid order and does not suffer from infirmity or illegality.

13. Having heard the rival submissions of learned counsel for the parties, I have perused the material on record.

14. On perusal of the order of the Additional Collector, it is apparent on the face of record that the finding was recorded that the land in question is recorded as abadi land, therefore the same cannot be allotted for agricultural purpose and its recording for agricultural purpose is irregular. The finding has also been recorded by the Additional Collector that in regard to resolution dated 23.12.1972, no agenda nor publication is present in the file of the S.D.M. nor approval of the said resolution is available, therefore the lease granted to the opposite party no.5 is illegal and is liable to be cancelled.

The finding recorded by the Additional Collector has no where considered by the Additional Commissioner and without recording any finding on the point in question, the order has been passed, therefore the order is not sustainable in law and is liable to be set aside.

15. The Additional Commissioner has also recorded finding that the petitioner is not resident of the particular village, but in this regard no material whatsoever was taken into consideration while recording this finding. The finding recorded by the Additional Commissioner is perverse in nature and without any rational basis, therefore the order passed by the Additional Commissioner is not sustainable in the eyes of law.

16. Once the finding was recorded by the Additional Collector that on the basis of resolution dated 23.12.1972, opposite party no.5 could not produce the resolution or publication in regard to holding of resolution on 23.12.1972 nor produce the order of approval of the said resolution and held that the lease granted to opposite party no.5 is liable to be cancelled. This finding recorded by the Additional Collector has not been reversed by the Additional Commissioner in passing the impugned order dated 30.5.2005, therefore the order is *per se* illegal and is liable to be set aside.

17. The argument advanced by learned counsel for the respondents that the petitioner is not resident of that particular village is not based on any material evidence in this regard, therefore the argument advanced in regard to that is not sustainable in the law and is rejected. The order passed by the Additional Commissioner suffers from apparent illegality and is liable to be set aside.

18. In view of the reasons recorded above, order dated 30.5.2005 is hereby quashed. The matter is remanded back to the Additional Commissioner (Admn.), Faizabad Division, Faizabad to decide afresh after affording full opportunity of hearing to the parties taking into account the findings recorded by Additional Collector in his order dated 4.9.1997, particularly in regard to fact that no approval was granted to resolution passed in favour of opposite party no.5

19. In the result, this writ petition is **allowed**.

20. It is however left open to the Additional Collector to decide the right of parties, particularly of the petitioner as he is having valid right or not.

March 19, 2026
GK Sinha

(Irshad Ali,J.)