



2026:AHC:23313

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 492 of 2026

Chhote Lal And Another

.....Petitioner(s)

Versus

State Of Uttar Pradesh And 8 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Harish Chandra
Counsel for Respondent(s)	:	C.S.C.

Court No. - 55

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard learned counsel for the petitioner, Mr.B.N. Pathak, learned Standing Counsel for the State-respondents.

2.The instant writ petition has been filed for the following relief:-

"I. Issue a writ, order or direction in the nature of Mandamus staying the operation and effect of the impugned order dated 14.08.2025 passed by the Sub-Divisional Magistrate, Handia, District-Prayagraj, in appeal no. 6674 of 2024 (Keshari Prasad and others Vs. Chhote Lal and others) under section 35(2) of U.P. Revenue Code-2006 till the final disposal of Revision No. 4749 of 2025 (Chhotelal and another Vs. Keshari Prasad and others) under section 210 of U.P. Revenue Code pending before the Board of Revenue, U.P., Allahabad.

(ii). Issue a writ, order or direction in the nature of Mandamus commanding the respondent authorities not to dispossess the petitioners and not to interfere in their peaceful possession over the land in question during the pendency of the aforesaid revision.

(iii) Issue an appropriate writ, order or direction commanding the Board of Revenue, U.P. to decide Revision No. 4749 of 2025 expeditiously within a time bound period."

3. Learned counsel for the petitioner submitted that mutation

proceeding initiated by father of respondent Nos.5 to 9 was rejected by the Tehsildar, vide order dated 3.7.2023. He further submitted that appeal under Section 35 (2) of U.P. Revenue Code, 2006 was filed by private respondents. He further submitted that in appeal Sub Divisional Officer has passed the order vesting the plot in question in state in arbitrary and illegal manner. He submitted that petitioner is denying the execution of the sale deed of the plot in question in favour of father of the private respondents, as such plot in question cannot be vested in the State rather petitioners are lawful owner of the plot in question. He submitted that petitioners have filed revision along with the stay application before Board of revenue, but board of revenue has not granted interim order rather issue notice to opposite parties. He further submitted that in civil suit filed by petitioners for cancellation of sale deed, injunction for status quo has been granted but state is not party in the civil suit. He further submitted that on the basis of the order passed by Sub Divisional Officer under Section 35 (2) of U.P. Revenue Code, 2006 vesting the property in state, authorities are interfering with the right and title of the petitioners in respect to property in question, as such petitioners are entitled for interim protection against the order of Sub Divisional Magistrate dated 14.8.2025. He further placed reliance upon the judgment of this Court reported in **2007 (102) RD 498 Ali Sher Vs. State of U.P. through Collector, Bijnor and others**, in order to demonstrate that interim protection should be granted during pendency of appeal / revision if the order under appeal/ revision has serious consequences.

4. On the other hand, B.N. Pathak, learned Standing Counsel for the State-respondents submitted that no interference is required against the interim order passed during pendency of the revision by Board of Revenue. He submitted that petitioners, should contest the proceeding of revision before board of revenue rather writ petition before this Court.

5. I have considered the arguments advanced by the learned counsel for the petitioners, learned Standing Counsel for the State and perused the record.

6. There is no dispute about the fact that by order of Sub Divisional Officer in appeal under Section 35 (2) of U.P. Revenue Code, 2006 property in question vested in the State. There is also no dispute about the fact that revision along with stay application filed by petitioners is pending before the Board of Revenue, but no interim protection has been granted by Board of Revenue during pendency of the revision.

7. This Court in case of **Ali Sher(Supra)** has held that if order under appeal or revision has serious consequence then operation of the order must be suspended till pendency of the appeal/revision. Paragraph Nos.4 & 5 of the judgment rendered in **Ali Sher (Supra)** will be relevant which are as under:

"4. It is well settled that once an appeal or revision is entertained by a higher Court against an order having civil consequences stay normally should be granted to avoid swinging pendulum unless the Court for the reasons to be recorded finds that there is no case for grant of stay as observed by the Hon'ble Apex Court in the case of Mool Chand v. Raza Buland Sugar Industries.

5. Considering the facts and circumstances, impugned order dated 16.11.2006 is hereby quashed. Writ petition stands allowed. Appellate Court is directed to disposal of the appeal of petitioner in accordance with law as expeditiously as possible preferably within a period of two months from the date of production of certified copy of this order before him and till the disposal of appeal as directed above, parties shall maintain status quo with regard to nature and possession over the land in dispute."

8. In the instant matter, petitioners are denying execution of any sale deed in favour of father of private respondents, as such vesting the property in question in State in the appeal filed by private respondents is not in accordance with law.

9. Considering the ratio of law laid down by this Court in **Ali Sher (Supra)** as well as facts and circumstances of the case, **the instant petition is finally disposed of** directing the respondent No.2/ Board of Revenue to decide the aforementioned pending revision No. 4749 of 2025 under Section 210 of U.P. Revenue Code, 2006 filed by petitioners expeditiously preferably within a period of three months from the date of production of certified copy of this Court after affording proper opportunity of hearing to the parties. It is further directed that till the pendency of the aforementioned revision before the Board of Revenue, effect and operation of the order dated 14.8.2025 passed by Sub Divisional Officer, Handia, Prayagraj shall remain kept in abeyance.

February 2, 2026

PS*

(Chandra Kumar Rai,J.)