



2026:AHC:27730-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD AFR

WRIT - C No. - 3630 of 2026

Sarvesh Kumar And Another

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Raj Kishor Mishra
Counsel for Respondent(s)	: C.S.C., Shiv Prakash Gupta, Yash Padia

Court No. - 21

**HON'BLE MAHESH CHANDRA TRIPATHI, J.
HON'BLE KUNAL RAVI SINGH, J.**

1. Heard learned counsel for the petitioners; Sri Devesh Vikram, learned Additional Chief Standing Counsel for the State-respondents and Sri Yash Padia, learned counsel for the Kanpur Development Authority (in short "Authority").
2. The instant writ petition under Art.226 of the Constitution of India has been preferred for following reliefs:-

"(1) Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 29.12.2025 passed by respondent no.2/ District Magistrate, District Kanpur Nagar.

(2) Issue a writ, order or direction in the nature of mandamus directing the Prescribed Authority to pass afresh order regarding the compensation of the petitioners of Arazi No.82 area 0.1180 hectare and Gata No.503 area 0.1540 hectare situated at Village Bairi, Akbarpur Kachhar, District Kanpur Nagar at the present circle rate.

(3) Issue a writ, order or direction in the nature of mandamus directing to the respondents to make rehabilitation and resettlement award as per provisions of Act, 2013."

3. The factual matrix giving rise to the instant writ petition is that the proceeding under the Land Acquisition Act, 1894 (in short "Act, 1894) in respect of area notified under Section 4 read with Section 17 (4) and Section 6 read with Section 17 (1) of the Act, 1894 was gazetted for 07 revenue villages of District Kanpur Nagar, Uttar Pradesh. A notification under

Section 4 of the Act, 1894 was issued for planned development of New Kanpur City in the official gazette of the State of Uttar Pradesh on 9th August, 1996 in respect of a huge area of land of seven revenue villages. The notification was also published in different newspapers. The last such publication was made on 20.12.1996. The declaration under Section 6 of the Act, 1894 was published on 17.12.1997 in the official gazette. The provisions of Section 17 (1) and 17 (4) of the Act, 1894 were resorted to and as such enquiry under Section 5A of the Act, 1894 was dispensed with. Various writ petitions were preferred by the aggrieved persons questioning the validity of the acquisition proceeding. The Civil Misc. Writ Petition No.66471 of 2005 (Mahavir Sahkari Avas Samiti Ltd. v. State of U.P. & Ors.) was filed challenging the validity of the acquisition proceeding, which was allowed vide order dated 26.09.2006 with following observations:-

".....The result therefore is that the Statutory prescribed period for making the declaration under Section 6 of the Act having lapsed, all actions and consequences subsequent to the notification under Section 4 of the Act stand vitiated. The impugned declaration under Section 6 of the Act dated 03.10.2005 is quashed, so far as the land involved in these petitions are concerned. The writ petitions accordingly succeed and are allowed with no order as to costs."

4. The record reflects that the petitioners' father, who was recorded tenure holder had never challenged the acquisition proceeding during his life time, first time the petitioners had preferred Writ-C No.37666 of 2025 (Sarvesh Kumar & Anr. v. State of U.P. & Ors.) in the year 2025, which was disposed of on 3.11.2025 with following observations:-

"1. Heard learned counsel for the petitioners, Shri Abhinav Krishna Srivastava, learned counsel appearing for respondent no.3, and Ms. Uttara Bahuguna, learned Additional Chief Standing Counsel for the State-respondents.

2. Learned counsel for the petitioners are the recorded tenure holder of Gata No.82 area 0.1180 hectare, Gata no.503 area 0.1540 hectare situated in village Bairi Akbarpur Kachhar, District Kanpur Nagar. Even though, the land was acquired but till date the actual compensation had not been disbursed.

5. Considering the factual situation, we are not inclined to issue notice or to invite counter affidavit to the respondents. With the consent of the parties, the instant writ petition is

disposed of with an observation that in case, the petitioner moves a detailed representation before the District Magistrate, Kanpur Nagar/respondent no.2 in accordance with law, within a period of two weeks from today, the same shall be considered and decided by the respondent no.2 in further three months but certainly after giving opportunity of hearing to all the stakeholders. "

5. In response to the aforesaid order, the claim of the petitioners had been considered and rejected by the order impugned, hence the instant writ petition has been preferred with aforequoted reliefs.

6. Learned counsel for the petitioners, in this backdrop, states that the order impugned is per se unsustainable as the petitioners are entitled for compensation at the current circle rate. He states that direction may be issued to the respondents to make award as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short "Act, 2013").

7. Per contra, learned Addl. Chief Standing Counsel has vehemently opposed the writ petition and submitted that initially acquisition proceedings were initiated for Planned Development of "Kanpur New City", which was challenged by various tenure holders. The acquisition proceedings were also tested in the leading Writ Petition No.66471 of 2005 (Mahavir Sahkari Avas Samiti Ltd. v. State of U.P. & Ors.). The said writ petition was allowed and the impugned declaration under Section 6 of the Act, 1894 was quashed qua the land involved in the said petition. He submits that admittedly for other tenure holders, who have not challenged the acquisition, the award was made with respect to their land in the year 2010. Admittedly qua petitioners' holding, award was made but till date no such challenge has been made to the award. In spite of the remedy of reference, the petitioners did not approach the competent court. Only a belated attempt has been made by the petitioners in the previous round of litigation, which was instituted in the year 2025, wherein an innocuous relief was prayed for according compensation. The Division Bench, without adverting to the merits of the matter, had disposed of the same with a direction to the respondents to decide the representation of the petitioners. In response thereof, the order impugned had rightly been passed by the respondents. He submits that admittedly the award qua the petitioner was made in the year 2010 and till

date the same has not been upset by any competent court. At this belated stage, the relief as prayed for, is totally misconceived and the order impugned does not warrant any interference in writ jurisdiction. Learned Addl. Chief Standing Counsel, in support of his submissions, has also placed reliance on the Division Bench judgment of this Court dated 16.05.2012, passed in a bunch of writ petitions with leading Writ Petition No.32875 of 2009 (**Smt. Krishana Tomar & Ors. v. State of U.P. & Ors.**).

8. Shri Yash Padia, learned counsel for the Authority has also corroborated the arguments so advanced by learned Addl. Chief Standing Counsel. In addition, he has also argued that the acquisition was made for planned development and admittedly neither the father of the petitioners nor the petitioners themselves had ever challenged the acquisition. Admittedly, the award has also attained finality and after more than 16 years of award, no such relief can be accorded and the order impugned is legally sustainable under the present facts and circumstances of the case.

9. We have heard rival submissions, perused the record and respectfully considered the judgments cited at Bar.

10. We find that no doubt the petitioners had never challenged the acquisition, which was of the year 2005. The relief accorded by the Division Bench in Mahavir Sahkari Avas Samiti Ltd. (Supra) was only available to those petitioners, who had challenged the acquisition. In the said proceeding, the Court had categorically observed that quashing is only qua the petitioners in the said proceeding. As such, in absence of any challenge to the acquisition by the petitioners or their predecessors, no such relief can be accorded. The argument that the petitioners are entitled to receive the compensation as per the Act, 2013 is also misplaced inasmuch as for the first time the petitioners had approached this Court in the year 2025 for a direction to the respondents to disburse the compensation. Admittedly the award is of the year 2010. In absence of any challenge or reference, no such relief, as has been prayed for, can be accorded under the Act, 2013. The quashing of declaration under Section 6 of the Act, 1894 vide order dated 26.09.2006 was only qua the petitioners, those have approached the Court at the relevant point of time and the same cannot be applied to other tenure holders, who have not challenged the same.

11. We have also proceeded to consider the judgment in Smt. Krishna Tomar & Ors. (Supra). In the said proceeding, same notifications under Sections 4 and 6 of the Act, 1894 were under challenge. The Division Bench had considered the objection of the respondents that the petitions were barred by gross delay and laches and had also considered the judgment passed by the Division Bench in Mahavir Sahkari Avas Samiti Ltd. (Supra). The Division Bench had also taken note of the fact that large number of writ petitions in respect of same acquisition of the remaining portion of 111.84 hecets. were filed and had been dismissed by this Court on the ground of laches. In the said proceeding, learned counsel for the respondents has also placed reliance on the order dated 24.2.2012 in Writ Petition No.10116 of 2012, Narendra Singh & Ors. v. State of U.P. & Ors., which for ready reference is quoted as under:-

"Heard learned counsel for the petitioners, Sri Ramendra Pratap Singh appearing for respondent No.4 and learned Standing Counsel appearing for respondents No.1, 2 and 3.

By this writ petition, the petitioner has prayed for quashing the notifications of section 4 and 6 of Land Acquisition Act 1894 dated 16.8.1988 and 22.2.1989 respectively.

This writ petition has been filed on 17.2.2012 i.e. after more than twenty years of declaration issued under Section 6 of the Land Acquisition Act.

The Apex Court in the case of Sawaran Lata vs. State of U.P. and others reported in 2010(4) SCC 532 has laid down following in paragraph 10:-

"10. Similar view has been reiterated in State of Rajasthan v. D.R. Laxmi wherein this Court has held that even the void proceedings need not be set at naught if the party has not approached the court within reasonable time, as judicial review is not permissible at a belated stage. This Court held as under:

"9. Delay in challenging the notification was fatal and writ petition entails with dismissal on grounds of laches. It is thus, well-settled law that when there is inordinate delay in filing the writ petition and when all steps taken in the acquisition proceedings have become final, the Court should be loath to quash the notifications.

10. The order or action, if ultra vires the power, becomes void and it does not confer any right. But the action need not necessarily be set at naught in all events. Though the order may be void, if the party does not approach the Court within reasonable time, which is

always a question of fact and have the order invalidated or acquiesced or waived, the discretion of the Court has to be exercised in a reasonable manner. When the discretion has been conferred on the Court, the Court may in appropriate case decline to grant the relief, even if it holds that the order was void. The net result is that extraordinary jurisdiction of the Court may not be exercised in such circumstances."

Similar view has been reiterated by this Court in Northern India Glass Industries v. Jaswant Singh and Haryana State Handloom & Handicrafts Corpn. Ltd. vs. Jain School Society."

A Full Bench of this Court in bunch of writ petitions being leading Writ Petition No.37443 of 2001 (Gajraj and others vs. State of U.P. and others) decided on 21st October, 2011 had occasion to consider the issue of laches in entertaining the writ petition challenging land acquisition proceedings. The writ petitions, which were filed with inordinate delay were dismissed.

Present is a case where acquisition is sought to be challenged after more than 10 years and there is no explanation in the writ petition which may furnish any ground for entertaining the writ petition after such a long period.

The writ petition being barred by laches is dismissed."

12. While dismissing the writ petitions in Smt. Krishna Tomar & Ors. (Supra) the Division Bench had also considered the judgment passed in Swaran Lata & Ors. v. State of Haryana & Ors., (2010) 4 SCC 532, wherein the Supreme Court relying upon State of Rajasthan v. D.R. Laxmi, (1996) 6 SCC 445 held that the order or action, if ultra vires the power, becomes void and it does not confer any right. The action need not necessarily be set at naught in all events. Though the order may be void, if the party does not approach the Court within reasonable time, which is always a question of fact and have the order invalidated or acquiesced or waived, the discretion of the Court has to be exercised in a reasonable manner.

13. In the instant proceeding, undisputed position, which emerges out is that the award was made in the year 2010. Even from the date of taking possession, the previous writ petition was preferred with inordinate delay of more than 15 years, as such no interference is required in the instant matter at this belated stage.

14. Hon'ble the Apex Court in **Swaika Properties Pvt. Ltd. & Anr. v. State of Rajasthan & Ors.**, 2008 AIR SCW 1574 has deprecated the practice of filing writ petitions after possession has been taken and award has become final and held that the said writ petitions are liable to be dismissed for delay and laches. Similar view has also been taken by Hon'ble Apex Court in **Municipal Corporation of Greater Bombay v. Industrial Development Investment Co. Pvt. Ltd. & Ors.** (1996) 11 SCC 501 in which it is held:-

"It is thus well-settled law that when there is inordinate delay in filing the writ petition and when all steps taken in the acquisition proceedings have become final, the Court should be loath to quash the notifications. The High Court has, no doubt, discretionary powers under Article 226 of the Constitution to quash the notification under Section 4(1) and declaration under Section 6. But it should be exercised taking all relevant factors into pragmatic consideration. When the award was passed and possession was taken, the Court should not have exercised its power to quash the award which is a material factor to be taken into consideration before exercising the power under Article 226. The fact that no third party rights were created in the case is hardly a ground for interference. The Division Bench of the High Court was not right in interfering with the discretion exercised by the learned Single Judge dismissing the writ petition on the ground of laches."

15. Similar view has also been taken by Hon'ble Apex Court in **Hari Singh & Ors. v. State of U.P. & Ors.**, AIR 1984 SC 1020, wherein interference has been denied only on the ground of delay as it would cause serious public prejudice. The Courts have repeatedly held that a writ petition challenging the notification for acquisition of land, if filed after the possession having been taken, is not maintainable.

16. In the instant proceeding, what we find is that the acquisition proceedings were initiated in the year 1996, the award was made in the year 2010 and first time the writ petition was instituted by the petitioners in the year 2025. As such, there is hardly any scope to exercise our discretionary jurisdiction under Art.226 of the Constitution of India in the instant matter. We further observe that where the Court quashes the acquisition on the grounds personal to individual objectors-such as vitiated consideration of their specific objections under Section 5A, the relief operates "in personam" and benefits only those parties, who contested the matter before the judicial forum.

17. In Smt. Krishna Tomar & Ors. (Supra) similar benefits had been denied in terms of Mahavir Sahkari Avas Samiti Ltd. and the writ petition was dismissed in the year 2012 itself, whereas in the instant matter, first time the petitioners approached this Court, without any challenge to the acquisition proceeding, in the year 2025, only asking for the compensation under the Act, 2013. As such, no interference can be made at this belated stage.

18. In the facts and circumstances of the case, we do not find any infirmity or illegality in the order impugned, which may warrant any interference in writ jurisdiction. However, in the interest of justice, it is provided that in case the petitioners have not lifted the compensation, they are at liberty to move appropriate application before the Special Land Acquisition Officer (SLAO) for disbursement of compensation, which was deposited in view of the award made in the year 2010.

19. With the aforesaid observations, the instant writ petition stands **disposed of.**

(Kunal Ravi Singh,J.) (Mahesh Chandra Tripathi,J.)

February 9, 2026

A.K.Srivastava