



2026:AHC:129597-DB

Reserved

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 24377 of 2026

Shafiqur Rahman and 6 others

.....Petitioner(s)

Versus

State of U.P. and 4 others

.....Respondent(s)

Counsel for Petitioner(s)	: Suhel Ahmad Azmi
Counsel for Respondent(s)	: C.S.C., Vibhu Rai

HON'BLE J.J. MUNIR, J.
HON'BLE ARUN KUMAR, J.

(Delivered by Hon'ble Arun Kumar, J.)

1. Heard Mr. D.P. Singh, Advocate holding brief of Mr. Suhel Ahmad Azmi, learned counsel for the petitioners, Mr. Vibhu Rai, learned counsel appearing on behalf of respondent nos.3, 4 & 5 and Mr. Sharad Chandra Upadhyay, learned Standing Counsel for the State respondent nos.1 & 2.

2. The present writ petition has been filed challenging the office memorandum dated 15.05.2026 passed by respondent no.3 and the notice dated 06.06.2026 issued pursuant to it, directing eviction of the petitioners from the residential quarters constructed by the Nagar Nigam, Aligarh, over the Plot Nos. 78 and 87 situated in Mauja Dodpur Mafi, Tehsil Kol, District Aligarh.

3. It is contended by learned counsel for the petitioners that over Nazul Plot Nos. 78 and 87, the Nagar Nigam, Aligarh constructed

residential quarters for its employees. The predecessor-in-interest of petitioners were inducted as tenant in some of the vacant quarters, who had been regularly paying rent to the Nagar Nigam, Aligarh. It is further contended that, the Nagar Nigam, Aligarh, passed a resolution for declaring the accommodation in possession of the petitioners as freehold on deposit of requisite charges. The petitioners deposited the freehold charges as demanded from them. The Plot Nos.78 and 87, were declared freehold by the State Government in favour of Nagar Nigam, Aligarh. A freehold deed dated 26.9.2009 was executed by the then District Magistrate in its favour in respect of the aforesaid plots.

4. It is further contended by learned counsel for the petitioners that separate notices dated 5.12.2025, were issued to the petitioners along with other occupants for vacating the houses constructed by the Nagar Nigam over Plot Nos.78 and 87 or submit their document of title or an order of a competent court in their favour, if any, within 15 days or they would be evicted. The petitioners along with other occupants filed their objection to the aforesaid notices on 12.12.2025. Aggrieved by the said notices, the petitioners along with others, filed Writ-C No.78 of 2026 before this Court, which was disposed of by another Coordinate Bench of this Court, directing the respondent no.3 to decide the objections filed by the petitioners, and till then a direction was issued for not taking any coercive action against them, on the basis of aforesaid notices.

5. After putting the petitioners to notice, the respondent no.3 by its order dated 15.5.2026, rejected the objections filed by the petitioners and others, claiming their right over the accommodation in their possession over the land of Nagar Nigam. Pursuant to the aforesaid order, notice dated 6.6.2026 was issued to the petitioners and sixteen others to remove their effects from the residential quarters constructed by the Nagar Nigam, within 15 days, otherwise they would be forcefully evicted. The aforesaid orders are the cause of action for filing the present writ petition.

6. It is argued by learned counsel for the petitioners that the requisite deposit towards freehold rights were duly made by the petitioners on the demand raised by the Nagar Nigam in 1993, pursuant to which they became valid allottees of the said quarters. Learned counsel for the petitioners has relied upon the order and decrees passed by the civil court in Original Suit Nos.566 of 1995 and 583 of 1995 filed by Manzoor Hussain and Shakeel Ahmade Kadri, respectively, against the Nagar Nigam, Aligarh, which were decreed in their favour, injunction the defendant therein, not to evict the plaintiff's, except in accordance with law. It is contended that the aforesaid decrees of 2001 have attained finality. Further reliance has been placed on the judgment and decree dated 15.5.2001 passed in Original Suit No.569 of 1995 (Iqbal Ahmad Vs. Deputy Administrator, Nagar Nigam, Aligarh), which was also decreed on the same terms.

7. Learned counsel for the petitioners argued that the occupants, who had approached the civil court in suits for permanent injunction against the Nagar Nigam, were held to be its tenants and a permanent injunction was issued in their favour for not dispossessing them except in accordance with law. Therefore, as the petitioners are statutory tenants of the Nagar Nigam, Aligarh, they cannot be evicted, except in accordance with law. It has been further contended that the petitioners have been regularly paying rent to the Nagar Nigam, therefore, their forceful eviction by issuing notices dated 06.06.2025, is arbitrary and illegal.

8. Per contra, learned counsel for the Nagar Nigam, Aligarh, opposing the contention of the petitioners argued that the petitioners have failed to bring on record any document to establish that they are tenants of the answering respondents. No material evidence has been brought on record to establish their induction as tenants or allotment of the residential quarters in their possession. In absence of any valid document showing their possession, the Nagar Nigam can evict the trespassers from the public properties after giving them reasonable opportunity to show cause. It has been further contended that merely by

depositing certain amount of money before the Nagar Nigam, no right accrues in their favour, in respect of the residential quarters in their possession.

9. It was further argued, that there is nothing on record to show that any rent has been realized from the petitioners by the Nagar Nigam, Aligarh. The receipts filed by the petitioners do not show that they related to the rent payable by them for the residential quarters in their possession. It has been further contended that the judgment and decrees of the civil court are not in suits filed by the petitioners. Moreover, the injunction issued in favour of the plaintiffs restricts their forceful dispossession. However, the plaintiffs of the aforesaid suit and the petitioners can always be evicted in accordance with law. Learned counsel for the contesting respondents argued that the residential quarters were constructed for the employees of Nagar Nigam. However, the petitioners have trespassed into the vacant quarters and are illegally occupying them without any right and title.

10. Having heard learned counsel for the parties and upon perusal of the material brought on record, the principal question that arises for consideration is whether the petitioners have established any legal right to continue in occupation of the residential quarters constructed by the Nagar Nigam over Plot Nos. 78 and 87.

11. The petitioners have taken inconsistent stands regarding the nature of their occupation. In the writ petition, they have claimed to be tenants of the Nagar Nigam, whereas during the course of arguments it was contended that they had acquired rights as valid allottees upon depositing the amount allegedly demanded for grant of freehold rights. Both claims necessarily require proof by cogent documentary evidence.

12. The burden to establish a legal right enforceable under Article 226 of the Constitution lies upon the petitioners. However, except for certain receipts annexed to the writ petition, no documentary evidence has been produced. Even those receipts do not reflect that they are rent receipts.

No document has been produced to demonstrate that the petitioners or their predecessors-in-interest were ever inducted as tenants or allotted the residential quarters by the Nagar Nigam. No allotment letter, lease deed, tenancy agreement, municipal record, house register or any contemporaneous document recognizing their occupation has been brought on record.

13. The receipts relied upon by the petitioners (Annexure-1 to the writ petition) show that these relate to grant of freehold rights over the Nazul Plot Nos. 273 and 275. The receipts relied upon by the petitioners in support of their claim for grant of freehold rights do not advance their case. Firstly, the receipts do not indicate that the deposits were made pursuant to any demand raised by the Nagar Nigam for conferring freehold rights upon the petitioners. Secondly, the admitted position is that the State Government executed a freehold deed in favour of the Nagar Nigam only on 26.09.2009 in respect of the plots in question. In such circumstances, the plea that the petitioners had acquired enforceable freehold rights much prior thereto is wholly unsupported by the material on record. Mere deposit of an amount, in the absence of any order of allotment or execution of a conveyance in favour of the petitioners, cannot confer any legal or proprietary right.

14. Equally untenable is the claim of the petitioners that they are statutory tenants of the Nagar Nigam. The receipts filed as Annexure-2 do not disclose that they are rent receipts nor do they indicate that rent was accepted by the Nagar Nigam in respect of the residential quarters occupied by the petitioners. No material has been produced to establish the relationship of landlord and tenant between the parties. In the absence of any documentary evidence evidencing induction into tenancy or payment and acceptance of rent, the petitioners have failed to establish their plea of tenancy.

15. Learned counsel for the petitioners has placed reliance upon the judgments and decrees passed in Original Suit Nos. 566 of 1995, 569 of 1995 and 583 of 1995. Those decrees merely restrained the Nagar Nigam

from dispossessing the respective plaintiffs except in accordance with law. The petitioners before this Court were not parties to the said proceedings. The findings recorded therein operate only between the parties thereto and cannot automatically confer any legal right upon the present petitioners. Moreover, even those decrees do not create title in favour of the plaintiffs; they merely require that eviction, if any, be undertaken in accordance with law.

16. It is also pertinent to note that pursuant to the order passed by this Court in Writ-C No. 78 of 2026, the Municipal Commissioner considered the objections filed by the petitioners after affording them an opportunity of hearing before passing the order dated 15.05.2026. The petitioners have not been able to demonstrate that the impugned order suffers from any jurisdictional error, procedural irregularity, mala fides or perversity warranting interference in exercise of writ jurisdiction.

17. The dispute sought to be raised by the petitioners regarding their alleged tenancy, allotment and entitlement to freehold rights involves questions of fact which are required to be established by reliable evidence. Such disputed questions cannot ordinarily be adjudicated in proceedings under Article 226 of the Constitution, particularly when the petitioners have failed to place even prima facie documentary material demonstrating any enforceable legal right in their favour.

18. In the facts of the present case, the petitioners have failed to establish either (i) any allotment of the residential quarters in their favour; (ii) any tenancy recognized by the Nagar Nigam; (iii) any conveyance conferring freehold rights; or (iv) any other legal right entitling them to continue in possession. Mere long possession, assuming it to be so, does not, by itself, create any legal right against public property.

19. In view of the aforesaid discussion, this Court finds no illegality, arbitrariness or infirmity in the order dated 15.05.2026 passed by the Municipal Commissioner or the consequential notice dated 06.06.2026

warranting interference under Article 226 of the Constitution. It is, however, clarified that dismissal of this writ petition shall not preclude the respondents from taking further steps only in accordance with the procedure prescribed by law.

20. The writ petition is devoid of merit and is accordingly dismissed.

(Arun Kumar,J.) (J.J. Munir,J.)

June 30, 2026

Anil