



2026:AHC-LKO:17311-DB

A.F.R.

Reserved on 06.11.2025

Delivered on 10.03.2026

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 9806 of 2024

Sufiyakhatoon and another

.....Petitioner(s)

Versus

State of U.P. Thru. Prin. Secy. Rural Deptt. Lko. and 9 others

.....Respondent(s)

Counsel for Petitioner(s)	: Mohd. Hayan Hasan, Mohd. Altaf Mansoor
Counsel for Respondent(s)	: C.S.C., Ram Kumar Singh

Court No. - 25

**HON'BLE MRS. SANGEETA CHANDRA, J.
HON'BLE AMITABH KUMAR RAI, J.**

(Delivered by Hon'ble Amitabh Kumar Rai, J.)

1. Heard Shri Sudeep Seth, learned Senior Advocate assisted by Shri Mohd. Hayan Hasan, learned counsel for the petitioners, Shri Ram Kumar Singh, learned counsel for the Nagar Panchayat and Shri Prakhar Mishra, learned Additional Chief Standing Counsel appearing for the State-Respondent.

2. This writ petition has been filed by the petitioners with the following main prayers :

"(i) To issue a writ, order or directions in the nature of certiorari quashing the impugned order dated 6.8.2024 passed by the opposite party no.5/ Executive Officer, Nagar Panchayat, Belhara, District Barabanki contained in Annexure-1 to the writ petition.

(ii) To issue a writ, order or directions in the nature of Mandamus commanding the respondents especially the officials respondents no.2,3,4,5 and 8 to restore the possession of the land in question bearing Gata No.807 (old Gata no.1023) in favour of the petitioners and further not to change nature of property or make any kind of construction on the petitioners land in question Gata No.807 (old Gata no.1023), and further direct them to remove the board which has been affixed on the land of the petitioner, during the pendency of the present writ petition.

(iii) To issue a writ, order or directions in the nature of Mandamus commanding the respondents especially the officials respondents not to cancel/delete the name of the petitioners from the records of Nagar Panchayat and restrain the opp. parties from entering the land in the name of Nagar Panchayat/local bodies."

3. It is the case of the petitioners that the father-in-law of the petitioners, namely, Late Shri Abdul Sattar Khan, purchased the land bearing Gata No. 807 (old Gata No.1023), measuring 6,695 sq. ft., from Mrs. Rani Kanij Abid of Riyasat Belhara situated at Bakariya Tola, Ward No.03, Belhara, District Barabanki through a sale receipt dated 31.08.1950. Ever since the said purchase, the petitioners and their family members have been in peaceful and continuous possession of the aforesaid land.

4. It has been submitted that respondent No.5, the Executive Officer, Nagar Panchayat, Belhara, District Barabanki issued two notices dated 29.04.2024 to both petitioners, calling upon them to submit documentary evidence in support of their ownership of the aforesaid land within a period of fifteen days alleging therein that the petitioners, on the basis of

incorrect information during the course of the survey, got the land in question registered in the register of house tax/water tax.

5. In response thereto, the petitioners submitted a detailed reply dated 10.05.2024 asserting that the land in question had been purchased by their father-in-law and that they are the lawful owners thereof. Along with the said reply, documents relating to title and possession were annexed and several other grounds were also raised opposing the proposed action contemplated under the said notices.

6. Despite the aforesaid reply, respondent no.5, the Executive Officer, Nagar Panchayat, Belhara, District Barabanki issued eviction order dated 13.06.2024 directing dispossession/eviction of both the petitioners, requiring them to remove the alleged encroachments from Gata No.807 within three days from the date of receipt of the said order. It was observed therein that the documents submitted by the petitioners were not found satisfactory to establish their ownership over the land in question and it was further directed that in case of non-compliance, the encroachments would be removed in accordance with the provisions of the Uttar Pradesh Municipalities Act, 1916.

7. Aggrieved by the aforesaid order dated 13.06.2024, the petitioners preferred Writ-C No.5615 of 2024 before the writ court challenging the validity of the said eviction order, which was allowed vide order dated 26.06.2024, whereby the order dated 13.06.2024 was set aside and the matter was remitted to the respondent no.5, the Executive Officer, Nagar Panchayat, Belhara, District-Barabanki to pass a fresh order strictly in accordance with law, holding that the earlier order had been passed in violation of the principles of natural justice. This Court also directed that no further action shall be taken against the petitioners pursuant to the order dated 13.06.2024. However, prior to it, the petitioners were already evicted on 19.06.2024.

8. Pursuant to the aforesaid directions, the petitioners submitted a representation dated 08.07.2024 before the respondent no.5, the Executive Officer, Nagar Panchayat, Belhara, District Barabanki seeking due consideration of their claim of right over the land in question.

Thereafter, the respondent No.5, the Executive Officer, Nagar Panchayat, Belhara, District Barabanki passed the order dated 06.08.2024 holding that Gata No.807 is abadi land belonging to the Nagar Panchayat and the petitioners have no right or title over the said property, which is under challenge in the present writ petition.

9. Per contra, learned counsel appearing for respondent no.5 has submitted that the land in question bearing Gata No.807 is recorded as abadi land situated at Village Belhara, Tehsil Fatehpur, District Barabanki as reflected from the Khatauni records.

10. It has been submitted that a portion of the said land had been encroached upon by several individuals by raising temporary structures such as tin-sheds and gumtis for which notices were issued. In their replies, those occupants stated that they had placed their gumtis on the said land with the permission of Shri Abdul Mannan Khan and Shri Abdul Hannan Khan, who are sons of petitioner nos.1 and 2 and they did not possess any documentary evidence relating to ownership of the land.

11. It has further been submitted that subsequently, affidavits were submitted by the occupants before the Enquiry Officer stating that they were in possession of the land with the consent of late Shri Abdul Sattar Khan and his heirs. A separate notice dated 29.04.2024 was also issued to the petitioners alleging submission of incorrect information in the tax registers. Additionally, the Sanitary Supervisor also submitted a report dated 20.05.2024 pointing out that encroachment had also taken place adjacent to the land in question over the nala/roadside drain, recommending removal of the same.

12. Learned counsel for the Nagar Panchayat has further submitted that the encroachment was removed on 19.06.2024 in accordance with the directions issued by the respondent no.5, Executive Officer, Nagar Panchayat, Belhara, District Barabanki as the petitioners failed to comply with the eviction order dated 13.06.2024. It has also been argued that the constructions raised were temporary in nature, no electricity connections were obtained and therefore, the claim that the gumtis had

been operating for a long period is false, the same having existed only for the past three to four years.

13. Lastly, it has been contended that the present case involves disputed questions of fact relating to title and possession, which can only be adjudicated by a competent civil court, and therefore, the writ petition is not maintainable and is liable to be dismissed.

14. The fact emerging from the record of the present writ petition indicates that Gata No.807 situated at Village Belhara, Tehsil Fatehpur, District Barabanki is recorded in the revenue records as Abadi land. A notice dated 29.04.2024 for removal of encroachment from the land in question was issued to the petitioners, calling upon them to produce title proof. In response to the notice dated 29.04.2024, the petitioners submitted a reply dated 10.05.2024, which was not found satisfactory and consequently, a notice of eviction was issued on 13.06.2024. Thereafter, a temporary encroachment from the land in question was removed on 19.06.2024. Against the eviction notice dated 13.06.2024, the petitioners filed Writ-C No.5615 of 2024, which was allowed vide judgment and order dated 26.06.2024 passed by the writ court, whereby the eviction notice dated 13.06.2024 was quashed and liberty was granted to pass a fresh order after affording an opportunity of hearing to the petitioners.

15. After passing of the order dated 26.06.2024 in Writ-C No.5615 of 2024, the petitioners submitted a letter dated 08.07.2024 containing their reply to the eviction notice, annexing therein a copy of the writ court's order dated 26.06.2024 before respondent No.5, the Executive Officer, Nagar Panchayat, Belhara, District Barabanki. The petitioners, in their reply dated 10.05.2024 to the earlier notice dated 29.04.2024 as well as in their reply dated 06.07.2024 to the eviction notice dated 13.06.2024, supported their claim of title and right over the land in question on the following grounds:

(i) The father-in-law of the petitioners was the title holder/owner of Gata No.807 on the basis of a receipt dated 31.08.1950 issued by the Belhara Estate in favour of the father-in-law, namely, late Abdul Sattar Khan,

which title has devolved upon the petitioners as successors being the surviving daughters-in-law of late Abdul Sattar Khan.

(ii) The Nagar Panchayat has registered the names of the petitioners for the purpose of payment of tax in respect of the land in question and pursuant thereto, they have already deposited a sum of Rs.5,243/- towards tax on 23.09.2022. The land in question was in possession of the ancestors of the petitioners for the last 74 years, from which they were dispossessed in an illegal and arbitrary manner on 19.06.2024, without any authority of law.

(iii) There is a dispute between the Chairman of the Nagar Panchayat and the family of the petitioners due to election rivalry, resulting in illegal dispossession of the petitioners from the land in question for ulterior motives, which amounts to a mala fide exercise of power by the Nagar Panchayat.

16. Respondent No.5, the Executive Officer, Nagar Panchayat, Belhara, District Barabanki, while considering the reply/objections of the petitioners to the eviction notice dated 13.06.2024, took into consideration the fact that the receipt dated 31.08.1950 relied upon by the petitioners to claim title and right over the land in question allegedly issued by the concerned Zamindar, Rani Kanij Abid for a sum of Rs.500/- with respect to Gata No.1023 (new Gata No. 807) is in teeth of Section 23 of the U.P. Zamindari Abolition and Land Reforms Act, 1950 (hereinafter referred to as “the Act, 1950”), which states that any transfer of land after 01.07.1948 cannot be considered for determination of rehabilitation grant.

17. Further, reference has been made to Section 4 of the Act, 1950, which provides that all estates stand vested in the State after the date of notification dated 01.07.1952 and relied upon Section 4 of the Act, 1950 to conclude that the land in question stood vested in the Gram Sabha by virtue of the said provision. Consequently, after the constitution of the Nagar Panchayat in the year 2016, the land in question stood vested in Nagar Panchayat, Belhara by virtue of Section 8 of the U.P. Panchayat

Raj Act, 1947 read with Sections 5 and 116 of the U.P. Municipalities Act, 1916 and thus Gata No.807 is the property of the Nagar Panchayat.

18. It has further been noted by respondent No.5, the Executive Officer, Nagar Panchayat, Belhara, District Barabanki in the order dated 06.08.2024 that the tax receipt dated 23.09.2022 does not confer any title or right as mere deposit of tax in respect of any property does not entitle a person to claim title or right over the property in question. It has also been observed that the petitioners managed to have their names recorded with respect to the land in question by submitting incorrect information during the course of the survey, which was subsequently cancelled by the Chairman, Nagar Panchayat, Belhara, vide order dated 23.06.2023. This fact also finds mention in the notice dated 29.04.2024.

19. Respondent No.5, the Executive Officer, Nagar Panchayat, Belhara, District Barabanki also recorded a finding that the claim of the petitioners regarding their predecessors' possession of the land for the last 74 years is incorrect, as there was a temporary encroachment on the land in question which was removed on 19.06.2024 and such a claim made by the petitioners is factually incorrect. Respondent No.5 further rejected the petitioners' claim of animosity and mala fide exercise of power as no evidence was produced before the Enquiry Officer to substantiate the alleged animosity with the Chairman of Nagar Panchayat, Belhara.

20. Shri Sudeep Seth, learned Senior Advocate assisted by Shri Mohd. Hayan Hasain, learned counsel for the petitioners, during the course of arguments, raised the following issues for consideration:

- (i) Respondent No.5, the Executive Officer, Nagar Panchayat, Belhara, District Barabanki assumed the role of a civil court and decided the title and rights over the land in question, which is beyond his jurisdiction as he has no such power under the U.P. Municipalities Act, 1916.
- (ii) Sections 4 and 23 of the Act, 1950 are not applicable to Abadi land and hence the land in question cannot vest in the Gram Sabha under Section 117 of the Act, 1950.

(iii) The petitioners have been in possession of the land for the last 74 years and the land stood settled with them under Section 9 of the Act, 1950 inasmuch as the sale receipt dated 31.08.1950 has not been disputed nor the fact that Gata No. 807 is Abadi land has been denied.

21. With respect to Issue No. 1 raised by counsel for the petitioners, it would be appropriate to take into consideration the judgment and order dated 26.06.2024 passed by the writ court in Writ-C No.5615 of 2024, wherein the eviction notice dated 13.06.2024 was under challenge. While passing the said judgment and order dated 26.06.2024, the writ court issued directions to respondent No.5, the Executive Officer, Nagar Panchayat, Belhara, District Barabanki to decide the objections/reply of the petitioners to the notice dated 29.04.2024 by a speaking and reasoned order. In pursuance of the aforesaid directions of the writ court, the petitioners submitted a detailed representation dated 08.07.2024, wherein they placed material in support of their title and right over the land in question.

22. In such circumstances, respondent No.5, the Executive Officer, Nagar Panchayat, Belhara, District Barabanki was bound to decide the issues raised by the petitioners regarding their claim of title and right. Accordingly, he recorded his findings with regard to the material placed before him by the petitioners in support of their claim of title and right over the land in question. Failure to do so would have exposed respondent No.5, the Executive Officer, Nagar Panchayat, Belhara, District Barabanki to proceedings for contempt of court for not complying with the directions contained in the judgment and order dated 26.06.2024 passed in Writ-C No.5615 of 2024. However, this cannot be stretched to allege that respondent No.5 assumed the role of a civil court so as to adjudicate the title dispute.

23. Moreover, the findings recorded by respondent No.5, the Executive Officer, Nagar Panchayat, Belhara, District Barabanki, while passing the order dated 08.07.2024, are not binding upon a court of

competent jurisdiction to adjudicate the title suit. Hence, the contention of the petitioners with respect to Issue No.1 is misconceived.

24. Issue No.2 raised by learned counsel for the petitioners relying upon Sections 4 and 23 of the Act, 1950 and dealt with by respondent No.5, the Executive Officer, Nagar Panchayat, Belhara, District Barabanki while passing the order dated 06.08.2024 is worth analyzing. While passing the said order dated 06.08.2024, respondent No.5, the Executive Officer, Nagar Panchayat, Belhara, District Barabanki rejected the claim of the petitioners with regard to the title of the land in question, placing reliance upon Section 23 of the Act, 1950 on the ground that the alleged receipt dated 31.08.1950 is subsequent to 01.07.1948 and therefore, void in view of Section 23(1)(a) of the Act, 1950.

25. Section 23 (1) of the Act, 1950 reads as under :

“Notwithstanding anything contained in any law, no transfer, by way of sale or gift of any estate or part thereof.

(a) made on or after the first day of July, 1948, shall be recognised for the purpose of assessing the amount of rehabilitation grant payable to the intermediary;

(b) Notwithstanding anything contained in any law, no transfer by way of sale or gift of any estate or part thereof made after the seventh day of July, 1949, shall be recognised for any purpose whatsoever and the estate shall be deemed to continue to vest in the transferor.”

26. Section 23(1)(b) of the Act, 1950 was deleted by the Act No.20 of 1954.

27. We are of the view that the reasoning assigned by respondent No.5, the Executive Officer, Nagar Panchayat, Belhara, District

Barabanki, while relying upon Section 23 of the Act, 1950 is neither proper nor correct. The aforesaid issue relating to Section 23 of the Act, 1950 was considered by the Hon'ble Supreme Court in the case of **Smt. Kalawati v. Bisheshwar** reported in **AIR 1968 SC 261**.

28. The issue before the Hon'ble Supreme Court pertained to the interpretation of Section 23(1)(b) of the Act, 1950 and in that context, paragraph 9 of the judgment rendered in the case of **Smt. Kalawati (supra)** is worth quoting :

“9. There is a clear distinction between a transaction being void that is, non-existent from its very inception and a ban against its recognition. Indeed when it is said that such a transaction is not to be recognised for any purpose whatsoever it postulates that the transaction does exist and is valid but is not to be recognised. Recognition means, according to Jowitt's Dictionary of English Law, p. 1486, an acknowledgment. According to the Shorter Oxford English Dictionary, (3rd Edn.) Vol. 11, p. 1673, recognition means: “The action or fact of perceiving that some thing, person, etc., is the same as one previously known; the mental process of identifying what has been known before; the action or fact of apprehending a thing as having a certain character belonging to a certain class”. There is thus a clear distinction between a transaction being void and one though valid and existent which is not to be recognised or acknowledged. The legislature also appears to be fully aware of the distinction between a void transaction and one which is not to be recognised. In Sections 24 and 166 the legislature has declared certain transactions therein set out

void and of no effect as against clause (b) of Section 23(1) where it provides only a bar against recognition. That being so it is impossible to say that the bar of recognition in clause (b) to a transfer made after July 7, 1949 means that such a transfer is void. The sale in favour of the appellant was therefore valid and did have the effect of conveying and vesting the ownership of the property in the appellant.”

29. Even otherwise, Section 23(1)(a) of the Act, 1950 expressly provides that any transfer by way of sale or gift of any estate or part thereof, made on or after 01.07.1948 shall not be recognized for the purposes of assessing the amount of rehabilitation grant payable to the intermediary which does not mean that the transfer itself has become void. Thus, the finding recorded by respondent No.5, the Executive Officer, Nagar Panchayat, Belhara, District Barabanki that the transfer of land in question vide sale receipt dated 31.08.1950 is void in light of the provisions contained in Section 23 of the Act, 1950 is based on an incorrect interpretation of Section 23(1)(a) of the Act, 1950.

30. Learned counsel for the petitioners, during the course of arguments, has also invited the attention of this Court to the judgment rendered by a Division Bench of this Court in **Ram Piari and others v. Board of Revenue and others in Civil Misc. Writ Petition No.4856 of 1970**, which pertains to Section 24 of the Act, 1950, the provision being *pari materia* with Section 23 of the Act, 1950 to contend that any contract or agreement made on or after 01.07.1948 by a Zamindar is void only for the purpose of determining the rehabilitation grant. Reliance has been placed on paragraphs 14, 17, 18 and 20 of the said judgment.

31. We have gone through the relevant provisions, as pointed out by learned counsel for the petitioners and we are satisfied that the provisions contained in Section 23(1)(a) of the Act, 1950 are confined

only to the extent of recognition for the purpose of assessing the amount of rehabilitation grant payable to the intermediary. A deed of transfer by way of sale or gift executed after 01.07.1948 is not void insofar as the rights and title of the transferee in whose favour the deed has been executed are concerned.

32. Learned counsel for the petitioners has also drawn our attention to Sections 4, 9, 23, 24, and 117 of the Act, 1950, along with Rule 26 of the U.P. Zamindari Abolition and Land Reforms Rules, 1952, to contend that the abadi land did not vest in the State Government and, in terms of Section 9 of the Act, 1950, shall continue to be held by the intermediary, tenant, or any other person in possession of such land, and shall be deemed to be settled with him. Reliance has also been placed upon the judgment in **Committee of Management Durga Narain College and Adity Kumari School and others v. State of U.P. and others** reported in **2018 SCC OnLine All 6762**.

33. Having gone through the judgment relied upon by the petitioners in **Committee of Management Durga Narain College (supra)**, we find that the said judgment is of no assistance to the petitioners, for the reason that, in that case, the petitioners' institution had been in possession of the property in question along with the appurtenant land, since the year 1923, when the institution was established and there was no dispute with respect to the title and possession over the property.

34. In the present case, we find that there exists a serious dispute regarding the title and possessory rights of the petitioners over the land in question. Upon going through the records of the writ petition as well as the arguments advanced by counsel for the parties, we find that the petitioners' claim is solely based on a receipt dated 31.08.1950, which is in the Urdu language. The translated Hindi version, annexed as Annexure No. 1 to the writ petition, in no manner describes the document as a sale or lease deed. The revenue records also do not contain any such entry which may corroborate the receipt dated 31.08.1950.

35. It is not possible on the basis of the said document to infer that a sale or lease deed was executed in favour of the father-in-law of the petitioners by the estate holder. The photographs annexed as Annexure No.3 to the writ petition reflect a building, which has been termed by the petitioners as 'Lal Kothi' and has been described by them in paragraph 7 of the writ petition as follows :

“On the land in question bearing Gata No.807 (old Gata No.1023) Lal Kohti of Estate Belhara was constructed and the petitioners father-in-law, namely, late Sri Abul Sattar Khand had purchased some portion of sahan land of Lal Kothi of Estate Belhara and sahan of Lal Kothi was surrounded by boundary walls. Late Smt. Kanij Abid had sold the land of sahan (open land) to the petitioners' father-in-law through sale receipt dated 31.08.1950 situated at Bakariya Tola, Ward No.3, Belhara, Barabanki through a sale receipt.”

36. The photographs do not depict any construction or remnants of any oil mill or flour mill which might have been operated by father-in-law of the petitioners in past at any point of time.

37. The possession of the petitioners over the land in question has also been seriously disputed in the counter affidavit filed by respondent No.5, the Executive Officer, Nagar Panchayat, Belhara, District Barabanki. It has been stated therein that the land in question is abadi land, upon which there were certain temporary encroachments made only two to three years ago by some persons (not the petitioners) by erecting kiosks (gumtis) and tin sheds without any electricity connection.

38. It has also been stated in the counter affidavit that the petitioners have their residence at Ward No.6 (Bhatuwamau), whereas the land bearing Gata No.807 is situated at Ward No.3 (Belhara) and the distance

between the two locations is approximately one kilometer and the receipt dated 31.08.1950 cannot be relied upon with regard to the petitioners' claim of title and rights over the land in question.

39. We are of the opinion that the disputed questions of fact regarding possession and title of the property cannot be examined by this Court in exercise of its powers under Article 226 of the Constitution of India and, for that purpose, the appropriate remedy is a civil suit.

40. A Constitution Bench of the Hon'ble Supreme Court in **Sohan Lal v. Union of India** reported in **AIR 1957 SC 529**, while dealing with the question of title, held that a civil suit is the appropriate remedy and that a writ petition filed under Article 226 of the Constitution of India is not an appropriate remedy. Paragraphs 5 and 6 of the said judgment are quoted herein below :

“5. We do not propose to enquire into the merits of the rival claims of title to the property in dispute set up by the appellant and Jagan Nath. If we were to do so, we would be entering into a field of investigation which is more appropriate for a civil court in a properly constituted suit to do rather than for a Court exercising the prerogative of issuing writs. There are questions of fact and law which are in dispute requiring determination before the respective claims of the parties to this appeal can be decided. Before the property in dispute can be restored to Jagan Nath it will be necessary to declare that he had title in that property and was entitled to recover possession of it. This would in effect amount to passing a decree in his favour. In the circumstances to be mentioned hereafter, it is a matter for serious consideration whether in proceedings under Article 226 of the Constitution such a declaration

ought to be made and restoration of the property to Jagan Nath be ordered.

6. Jagan Nath had entered into a transaction with the Union of India up to a certain stage with respect to the property in dispute, but no letter of allotment had been issued to him. Indeed, he had been informed, when certain facts became known, that the property in question could not be allotted to him as he was a displaced person who had been allotted land in East Punjab. As between Jagan Nath and the Union of India it will be necessary to decide what rights were acquired by the former in the property up to the stage when the latter informed Jagan Nath that the property would not be allotted to him. Another question for decision will be whether Jagan Nath was allowed to enter into possession of the property because it was allotted to him or under a misapprehension as the Union of India was misled by the contents of his application. The case of the Union of India is that under the scheme Jagan Nath was not eligible for allotment of a house in West Patel Nagar, as it was subsequently discovered that he had been allotted, previous to his application, agricultural land in the District of Hissar. Being satisfied that Jagan Nath was not eligible for allotment, the Union of India refused to allot to him the tenement No. 35, West Patel Nagar and allotment of that house was made to the appellant who was found to be eligible in every way. The appellant was accordingly given possession of the property after Jagan Nath's eviction. The appellant had complied with all the

conditions imposed by the Union of India and a letter of allotment was actually issued to him and he entered into possession of the property in dispute under the authority of the Union of India. Did the appellant thereby acquire a legal right to hold the property as against Jagan Nath? In our opinion, all these questions should be decided in a properly constituted suit in a civil court rather than in proceedings under Article 226 of the Constitution."

41. Hon'ble Supreme Court in the case of **State of Rajasthan vs. Bhawani Singh and others** reported in **AIR 1992 SC 1018** held that a writ court cannot go into the disputed questions of title of a property. paragraph 7 of the said judgment is reproduced hereinbelow :

"Having heard the counsel for the parties, we are of the opinion, that the writ petition was misconceived insofar as it asked for, in effect, a declaration of writ petitioner's title to the said plot. It is evident from the facts stated hereinabove that the title of the writ petitioner is very much in dispute. Disputed question relating to title cannot be satisfactorily gone into or adjudicated in a writ petition."

42. The above proposition of law was once again reiterated by Hon'ble Supreme Court in the case of **Shalini Shyam Shetty and another vs Rajendra Shankar Patil** reported in **(2010) 8 SCC 329**. Paragraphs 59 and 60 of the said judgment are reproduced hereinbelow :

"59. It has repeatedly been held by this Court that a proceeding under Article 226 of the Constitution is not the appropriate forum for adjudication of property disputes or disputes relating to title. In Mohd. Hanif v. State of Assam

[(1969) 2 SCC 782] a three-Judge Bench of this Court, explaining the general principles governing writ jurisdiction under Article 226, held that this jurisdiction is extraordinary in nature and is not meant for declaring the private rights of the parties. (See SCC p. 786, para 5 of the Report.) In coming to the aforesaid conclusion in Mohd. Hanif v. State of Assam [(1969) 2 SCC 782] , this Court referred to the Constitution Bench decision in T.C. Basappa v. T. Nagappa [AIR 1954 SC 440] .

60. Following the aforesaid principles in Mohd. Hanif v. State of Assam [(1969) 2 SCC 782] , this Court in Hindustan Steel Ltd. v. Kalyani Banerjee [(1973) 1 SCC 273] held that serious questions about title and possession of land cannot be dealt with by writ court. In formulating these principles in Hindustan Steel Ltd. v. Kalyani Banerjee [(1973) 1 SCC 273] , this Court relied on the Constitution Bench decision in Sohan Lal v. Union of India [AIR 1957 SC 529] (see SCC p. 282, para 16 of the Report)."

43. The Hon'ble Supreme Court, in **Roshina T. v. Abdul Azeez K.T. and others** reported in **(2019) 2 SCC 329** held that a regular civil suit is the appropriate remedy for the settlement of disputes relating to property rights between private persons and the High Court cannot allow its jurisdiction under the Constitution to be invoked for deciding disputes for which remedies under the general law, civil or criminal, are available. Paragraph 17 of the said judgment is reproduced herein below :

"17. In our opinion, the High Court, therefore, while so directing exceeded its

extraordinary jurisdiction conferred under Article 226 of the Constitution. Indeed, the High Court in granting such relief, had virtually converted the writ petition into a civil suit and itself to a civil court. In our view, it was not permissible.”

44. The petitioners’ claim of title and possession over the land in question is highly disputed. As per their own admission, the petitioners are no longer in possession of the land after the removal of encroachments by the Nagar Panchayat, Belhara, District Barabanki on 19.06.2024 with the assistance of the revenue and police authorities.

45. Thus, we are of the view that the order dated 06.08.2024 to the extent of the reasoning given by respondent No.5, the Executive Officer, Nagar Panchayat, Belhara, District Barabanki disputing the petitioners’ title rights on the basis of Section 23 of the Act, 1950 is erroneous. At the same time we are also of the view that the petitioners have failed to establish their claim of title and possession for the last 74 years by any cogent and convincing evidence so as to warrant a finding in their favour regarding their title and possessory rights of the petitioners over the land in question by this court while exercising its powers under Article 226 of the Constitution.

46. Since the issues raised in the writ petition involve disputed questions of fact, which cannot be adjudicated in the present proceedings, the petitioners are required to avail the remedy under civil law. However, it is clarified that this Court has not expressed any opinion with regard to the title to the subject land or the question of possession and the same are left open to be adjudicated in appropriate proceedings before the competent civil court.

47. Accordingly, the present writ petition is **dismissed**.

48. No order as to costs.

(Amitabh Kumar Rai,J.) (Mrs. Sangeeta Chandra,J.)

March 10, 2026
Mahesh