2025:AHC-LKO:85681-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

WRIT - C No. - 12473 of 2025

Smt.Shamim Bano And Another

.....Petitioner(s)

Versus

U.P. Avas Evam Vikas Parishad Thru. Housing Commissioner Lko. And 5 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Uma Shankar Sahai, Devraj Singh, Shashwat Srivastava
Counsel for Respondent(s)	:	Ratnesh Chandra, C.S.C.

Court No. - 2

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

Heard learned counsel for the petitioner and learned Standing Counsel, who appears on behalf of State-Respondents.

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

"(i). To issue an order or direction in the nature of Certiorari quashing the impugned notice/ order bearing no. bearing No.2162/M-27/129 dated 05-12-2025 passed by opposite party no. 5, as contained in Annexure No. 1 to this writ petition.

(ii). To issue an order or direction in the nature of Certiorari quashing the impugned notice/ order No.2173/M-27/130 dated 08-12-2025 passed by opposite party no. 5, as contained in Annexure No. 1-A to this writ petition.

*(iii). To direct the opposite parties not to dispossess the petitioners or demolish their constructions existing over Khasra No. 473/0.125 and to take a decision on their applications/representations dated 11-07-2025, 16-07-2025, 11-12-2025 and 12-12-2025 with regard to allottment/release/regularization and regularize their Khasra No.473/0.125 hect. village Utrethia as has been done in respect of other land which was also part of unplanned development as that of the petitioners on payment of development/Betterment charges (*असुधार शुल्क**).***

It has been submitted by learned counsel for the petitioners that the

petitioners are being singled out for discriminatory treatment and for demolition of their construction situated on Khasra No.473, Village Utrethia, which is not a part of the planned development undertaken by the Avas Vikas Parishad for its residential colony, namely Vrindavan Yojana. The details of various commercial establishments and hospitals running on Khasra No.473, Village Utrethia have been given in paragraph nos.7 and 8 of the writ petition.

It has further been submitted that the Board meeting of the Parishad has taken a decision to regularize existing constructions by charging betterment fees. However, the case of the petitioners is not being considered in terms of the decision taken by the Board.

Learned counsel for the petitioners has also pointed out a letter issued by the Assistant Housing Commissioner on 12.12.2025 to the Executive Engineer, Construction Division, Lucknow-I, U.P. Avas Evam Vikas Parishad, Lucknow with regard to the construction made by the petitioners on Gata No.473, having an area of 0.125 hectare.

Shri Ratnesh Chandra, learned counsel appearing on behalf of respondent nos.1 to 5 has pointed out that Gata No.473 is a large piece of land measuring 9 Biswa and 17 Biswansi and it was included in the notification issued under Section 28 of U. P. Avas Evam Vikas Parishad Adhiniyam, 1965 on 30.07.1983 and the notification issued under Section 32 of U. P. Avas Evam Vikas Parishad Adhiniyam, 1965 on 24.09.1991. The possession of the land was taken by the U.P. Avas Vikas Parishad on 22.09.2000 and the award was declared on 31.10.2000. The award mentioned the recorded tenure-holder as one Habib Ahmad.

It is the case of the petitioners that they inherited the property from Habib Ahmad on the basis of a registered Will executed in the year 2021.

It has been submitted that after acquisition of the land and declaration of the award, Habib Ahmad could not have transferred ownership by way of a registered Will in favour of any person, as the land belonged to the Avas Vikas Parishad. Therefore, public notices were issued repeatedly, the last of which was issued on 05.12.2025, directing that the encroachment on Gata No.473 be removed, failing which demolition proceedings would be undertaken by the Avas Vikas Parishad.

It is only after the issuance of the public notice dated 05.12.2025 that the petitioners approached the Assistant Housing Commissioner by letter dated 12.12.2025. Thereafter, Assistant Housing Commissioner asked for an on-the-spot inspection to be carried out by the Executive Engineer, Construction Division, Lucknow-I, U.P. Avas Evam Vikas Parishad, Lucknow and for submission of a report to him.

It has been submitted that after acquisition, Assistant Housing Commissioner could not have asked for such a report as mentioned in the letter dated 12.12.2025, a copy of which has been annexed as Annexure No.14 to the writ petition.

Learned counsel for the petitioners has insisted that the Board, in its meetings, has repeatedly regularized constructions of various private persons on land which had already been acquired.

Shri Ratnesh Chandra, learned counsel for respondent nos.1 to 5 has stated that exemption or regularization can be granted only in respect of constructions which existed prior to the issuance of the notification under Section 28 of U. P. Avas Evam Vikas Parishad Adhiniyam, 1965.

Learned counsel for the petitioners could not place on record any document from which it could be stated with certainty that the Board had directed regularization of the construction made by the petitioners.

However, since the Assistant Housing Commissioner has asked the Executive Engineer, Nirman Khand, Lucknow-I (Vrindavan Yojana) to submit a report after carrying out an on-the-spot inspection, it is expected that no demolition exercise shall be carried out until an appropriate decision is taken in the matter by the Assistant Housing Commissioner after receipt of the report from the Executive Engineer, Nirman Khand, Lucknow-I (Vrindavan Yojana).

The writ petition stands **disposed of** accordingly.

December 19, 2025
Mahesh

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

Digitally signed by :-
MAHESH KUMAR
High Court of Judicature at Allahabad,
Lucknow Bench