

Court No. - 49

Case :- WRIT - C No. - 7339 of 2025

Petitioner :- Smt. Chhama

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Vikrant Rana

Counsel for Respondent :- C.S.C.,Sunil Kumar Singh

Hon'ble J.J. Munir,J.

Learned Counsel for the petitioner is permitted to implead the Sub Divisional Officer, Tehsil Sadar, District Baghpat as a party-respondent to the writ petition during course of the day.

Order on Civil Misc. Application No. 2 of 2025

An order of eviction under Section 67 of the U.P. Revenue Code, 2006 was passed by the Tehsildar on 05.07.2024 against which the appeal, preferred by the petitioner, was dismissed on 13.02.2025. The present petition was presented before this Court on 07.03.2025. In the meantime, a public interest litigation being Public Interest Litigation (P.I.L.) No. 1002 of 2025 was filed by one Rakesh in public interest, seeking removal of encroachment. Public Interest Litigation (P.I.L.) No. 1002 of 2025 came up before this Court on 05.05.2025 and the following order was passed:

"The petitioner alleges encroachment by respondent no. 5 in Khasra No. 2399 ad-measuring 280 sq. meter which is said to be land recorded as Abadi Bhangi.

Learned Standing Counsel states that an eviction order has already been passed on 05.07.2024 under Section 67 of the U.P. Land Revenue Code, 2006. The appeals of the encroachers have been dismissed on 13.02.2025.

Let a personal affidavit be filed in the matter by the Collector, Baghpat indicating if any higher forum has passed interim orders in the matter. If not, he will indicate why the eviction orders have not been carried out.

Lay as fresh on 20.05.2025.

Let this order be communicated to the Collector, Baghpat through the Chief Judicial Magistrate, Baghpat by the Registrar (Compliance) within 24 hours."

In the meantime, the petitioner here perhaps mindful of the order passed in Public Interest Litigation (P.I.L.) No. 1002 of 2025 by this Court mentioned the matter before the learned Judge hearing the writ petition arising out of orders under Section 67 of the U.P. Revenue Code, 2006 and his Lordship, by a very detailed interim order after noticing the order passed in Public Interest Litigation (P.I.L.) No. 1002 of 2025, took up the matter and passed the following interim order:

"14. Until further orders of this Court, operation of the order dated 5.7.2024 passed by respondent No.3 in Case No.5300 of 2023 (Land Management Committee Vs. Smt. Chhama), under Section 67 of the U.P. Revenue Code, 2006 shall remain stayed.

15. Constructions of the petitioner shall not be demolished and no recovery shall be made in pursuance of the order dated 5.7.2024 passed by respondent No.3."

When Public Interest Litigation (P.I.L.) No. 1002 of 2025 was taken up on 27.05.2025, the learned Counsel for the petitioner in the present petition brought the fact to the notice of this Court that an interim order has been passed in the present writ petition on 15.05.2025, whereupon this Court passed the following order in Public Interest Litigation (P.I.L.) No. 1002 of 2025:

"Connect with Writ-C No. 7339 of 2025 and lay as fresh before the same Bench day after tomorrow i.e. 29.05.2025 at 10:00 a.m. after obtaining orders of nomination from His Lordship the Hon'ble The Chief Justice."

Now both the matters in terms of the standing orders of the Chief Justice dated 05.12.2018 have been laid before me.

In the present writ petition, the petitioner moved an application under Article 215 of the Constitution invoking the inherent jurisdiction of this Court to punish the opposite parties to the said application, to wit, Avnish Tripathi, Sub Divisional Magistrate, Tehsil-Sadar, District Baghpat, Abhishek Kumar, Tehsildar, Tehsil-Sadar, District Baghpat, Deepak Sharma, Revenue Inspector, Tehsil-Sadar, District Baghpat and Mohit Tomar, Lekhpal posted at Baghpat for

wilfully disobeying the order dated 15.05.2025 passed by this Court in the present writ petition. This application has been moved on account of the fact that on 16.05.2025, a team consisting of the Revenue officials and assisted by police force reached the petitioner's house in order to demolish it, despite knowledge of the interim stay order dated 15.05.2025 passed by this Court that was brought to the knowledge of the Collector, Baghpat, the Sub Divisional Officer, Tehsil Sadar Baghpat, the Tehsildar, Baghpat and the Lekhpal concerned. The relevant averments in the affidavit filed in support of the application read:

"7. That it is stated here that after passing of the interim order dated 15.05.2025, the counsel for the petitioner immediately informed to the petitioner as well as to the deponent of the writ petition regarding the interim order dated 15.05.2025 by which the operation of the order dated 05.07.2024 passed by Assistant Collector/Tehsildar Sadar, District Baghpat has been stayed and construction of the petitioner has also been directed not to be demolished in pursuance of order dated 05.07.2024.

8. That it is stated here that the factum of passing of the interim order dated 15.05.2024 has also been brought into the knowledge of the authorities concerned i.e. the Collector/District Magistrate, District Baghpat, Sub-Divisional Magistrate, Baghpat and Tehsildar, Sadar, District Baghpat and Lekhpal, Tehsil Baghpat. District Baghpat.

9. That it is stated here that inspite of the fact that the opposite parties had knowledge of the interim order dated 15.05.2024 passed by this Hon'ble court, on 16.05.2024 a team consisting of opposite parties along with Police Force reached at the place of the petitioner to demolish the construction of the house of the applicant/petitioner.

10. That it is stated here that the son of the applicant i.e. deponent and other family members requested to the opposite parties not to demolish the house of the petitioner and also informed that the Hon'ble High Court has passed the interim order dated 15.05.2025 staying the order dated 05.07.2024 passed by Assistant Collector/Tehsildar Sadar, District Baghpat and also restrained to demolish the constructions.

11. That it is stated here that no sooner the copy of the order dated 15.05.2024 uploaded upon the website of this Hon'ble court on 16.05.2024, the son of the petitioner got the printout of the interim order dated

15.05.2024 passed in Civil Miscellaneous Writ Petition No. 7339 of 2025 (Smt. Chhama Vs. State of U.P. and Others) and also showed the same to the team including opposite parties present there.

12. That it is stated here that the opposite party no. 1 read the order and also showed the order to the other persons of the team including opposite party no. 2 to 4, however, despite the reading of the interim order and having full knowledge of the interim order dated 15.05.2025 passed by this Hon'ble court, the demolition of the house of the petitioner has not been stopped by the opposite parties and in very disgraceful manner the order dated 15.05.2025 passed by this Hon'ble court has been flouted willfully and deliberately by the opposite parties.

13. That it is stated her that the petitioner is filing the copies of the photographs showing that the authorities concerned i.e. opposite parties were fully aware about the interim order dated 15.05.2025 passed by this Hon'ble court even then they did not care about the same and continued with demolition proceedings and the copies of the said photographs are collectively annexed herewith and marked as Annexure No.3 to this affidavit.

14. That it is stated here that the aforesaid photographs clearly shows that the opposite party no. 1 is reading the order while the demolition was in progress and even the demolition proceedings were not stopped by the opposite parties.

15. That it is specifically stated here that the applicant is also having the visuals in the form of videos of the entire demolition proceedings and the same has been downloaded and saved in the pen drive and the same will be produced and submitted before this Hon'ble court as per the direction of this Hon'ble court.

16. That it is stated here that from the aforesaid photographs as well as videos it is quite evident that the opposite parties deliberately and willfully disobeyed and flouted the order dated 15.05.2025 passed by this Hon'ble court.

17. That it is stated here that the action of the opposite parties is contemptuous in nature and the same is nothing but deliberate and intentional act to disobey or flout the directions passed by this Hon'ble Court vide interim order dated 15.05.2025."

We cannot proceed to take cognizance of this application moved under Article 215 of the Constitution as a contempt application because that roster is not with

this Bench. At this stage, the Court proposed it to the learned Counsel for the petitioner in this petition, Mr. Vikrant Rana that he has to elect between a direction to transmit the papers of the present application to the Hon'ble Judge hearing civil contempt applications or consent to the conversion and treatment of this application as one for 'wrongdoer'.

Mr. Vikrant Rana, learned Counsel for the petitioner elects to pursue this application as one for wrongdoer. He will make necessary amendments in the application during course of the day, but not touching the affidavit.

Prima facie, the demolition has been carried out in violation of the interim order dated 15.05.2025 passed by this Court, which absolutely forbids the petitioner's house from being demolished or any recovery made from the petitioner. Also the order dated 15.05.2025 stays the operation of both the original order directing the demolition and the appellate order. The interim order dated 15.05.2025 passed by this Court is both a stay order and an injunction order. There is **no escape from its clutches**.

Learned Counsel for the petitioner has brought on record the photographs annexed at page nos. 23, 24 and 25, which show the demolitions being carried out and the order of the Court in the present writ petition being shown to the authorities, who are looking the other way.

An order of the Court once passed in the presence of the learned Standing Counsel representing the Authorities is deemed to be communicated as soon as it is made. The respondents are all Authorities of the State represented by the learned Standing Counsel, and, therefore, their presence in Court is always there. They have notice of all the orders passed by this Court through the learned Standing Counsel.

It is pointed that the interim order passed in the present writ petition was uploaded on 16.05.2025 at 03:10 p.m. Even if there is a delay in uploading of the order and it has been passed in the presence of the learned Standing Counsel, and, the petitioner says that the High Court has passed a stay order, it is the duty

of the Authorities to lay their hands back off something as drastic as demolition, until such time that the fact of a stay order being passed by this Court is verified. Upon hearing and an intimation of fact that this Court has passed a stay order, the Authorities should have immediately gone on the cautious mode and ascertained the said fact before proceeding further. Here, the photographs show that the order was already there, as the records show and well within the knowledge of the respondent-authorities and yet they went ahead with the demolition.

There seems to have come about a culture amongst the Executive Officers of the State, particularly, those in the Police and Civil administration to find a kind of pride in flouting judicial orders. It seems to give them a sense of achievement, rather than make them feel the guilt of being offenders. This matter cannot be taken lightly. It is well settled that any action done, whatever be its nature **in violation of a judicial order, is a nullity.**

The demolition is a physical act, which once accomplished, leaves only two choices to the Court to undo the wrong. One is, award of damages, and the other is restitution. The restitution would be by reconstruction of the demolished building. The building here was constructed in the *Harijan abadi*. It was not a construction in some kind of a public utility land, like a pond, a *khalihan* or a land submerged under water. Therefore, in our opinion, this might be a case, where restitution ought be ordered, requiring the State to reconstruct.

Let notice issue to the Collector, District Baghpat, the Sub Divisional Magistrate, Tehsil-Sadar, District Baghpat and the Tehsildar, Tehsil-Sadar, District Baghpat, requiring each of them to file their own affidavit **on or before 07.07.2025**, why the building demolished in violation of the interim order dated 15.05.2025 be not ordered to be reconstructed by them and restored to its original shape at Government costs.

List this matter on **07.07.2025** along with Public Interest Litigation (P.I.L.) No. 1002 of 2025.

To be taken up at **02:00 p.m.**

Let this order be communicated to the Collector, District Baghpat, the Sub Divisional Magistrate, Tehsil-Sadar, District Baghpat and the Tehsildar, Tehsil-Sadar, District Baghpat through the Chief Judicial Magistrate, Baghpat by the Registrar (Compliance) by **Monday i.e. 02.06.2025.**

Order Date :- 29.5.2025

Deepak