

Court No. - 5

Case :- WRIT - C No. - 7997 of 2025

Petitioner :- Babu Lal

Respondent :- State Of U.P. Thru. Collector, Raebarelli And Others

Counsel for Petitioner :- Syed Amir Hasan, Afaq Zaki Khan

Counsel for Respondent :- C.S.C., Dilip Kumar Pandey

Hon'ble Alok Mathur, J.

1. Heard Sri Afaq Zaki Khan, learned counsel for the petitioner, learned Standing counsel on behalf of respondent No.s 1 and 2 and Sri Dilip Kumar Pandey for respondent No.3.

2. It has been submitted that the petitioner was allotted a patta on gata Khasra No.385/353 area- 11 biswa on 5.3.1990 situated at Poore Tain, Majre, Jogmagdimpur, pargana Dalmau, Tehsil Unchahar, District Raebareli. It is further submitted that the said patta is reflected even in the revenue records. He has further submitted that the Area Lekhpal submitted a report stating that the petitioner is occupying gata No.385 and constructed house and a shop which is illegal and unauthorized as the same is gaon sabha land recorded as *banjar*. A notice under Form 20 was issued to the petitioner and proceedings under Section 67 of U.P. Revenue Code were initiated. The petitioner had appeared before the Tehsildar, Tehsil Unchahar and filed his objection where he has clearly stated that the said land was given as a patta to the petitioner and even the same is available on the revenue record. He has further submitted that subsequently there was an error in the revenue records of the said land and the process for correction of the revenue records were also underway.

3. The Assistant Collector, First Class/Tehsildar, Tehsil Unchahar, District Raebareli rejected the objection of the petitioner and passed order for his eviction and imposed penalty by means of order dated 25.11.2023.

4. Against the said order, the petitioner filed an appeal before the District Magistrate, Raebareli and before the appellate authority the petitioner again submitted that he was in possession of the said land on the basis of patta granted to him by due process of law and the patta has not been cancelled till date but only there was an error in the records of the said land which was subsequently recorded as a public utility land and accordingly the petitioner could not be held to be unauthorizedly occupying the same.

5. It seems that despite filing of the appeal against the order

dated 25.11.2023 the respondents proceeded to demolish the house of the petitioner and even the appeal of the petitioner was rejected on 28.5.2025. It is surprising that none of the authorities below even considered the case of the petitioner that he has been granted patta on the land which has been held by the respondents to be gaon sabha land on which the petitioner is found to be in unauthorized possession.

6. We are surprised as to the manner of adjudication of such disputes as in the present case clearly when the petitioner was granted patta by the Land Management Committee and the patta was itself recorded in the revenue record/khatauni then certainly the petitioner could not have been held to be in illegal occupation of the said property. A Tehsildar, who is head of revenue of the entire Tehsil would be aware of the process of grant of patta and can also decipher the revenue record and cannot be said to be ignorant about the said facts. To demolish a house of an individual is extremely serious issue and should be done only when there is clear and ample evidence with regard to its illegal occupation. Heavy duty is entrusted to the authorities to proceed under Section 67 and 67 (1) of U.P. Revenue Code being fully satisfied about the facts before ordering demolition of an illegal buildings and in the present case clearly there is no material which can indicate that the petitioner had been in illegal occupation of the said premises and even the authorities below have not rebutted the stand of the petitioner with regard to his claim of having been granted patta by the land management committee.

7. We are also surprised with the speed on which the house of the petitioner has been demolished despite the fact that the petitioner filed appeal against the order under Section 67 of U.P. Revenue Code. Undoubtedly, right to property is constitutionally protected under Article 300 A of the Constitution and no person can be deprived of his right to property except in accordance with law. In the present case, the petitioner was in possession of the said land on the basis of patta and accordingly he could not have been stated to be in unauthorized occupation of the said land. Not only the authorities did not consider the case of the petitioner but have also shown undue haste in demolishing his house.

8. Accordingly, let personal affidavit be filed by the Collector, Raebareli, opposite party No.2 and also by the authority who had made endorsement in the revenue records to delete the name of the petitioner and recording the said land as public utility land. Let the said affidavits be filed within ten days. They are also put under notice as to why exemplary cost should not be imposed for proceeding in such a manner as stated

hereinabove.

9. List this case on 4.9.2025 in top ten cases.

(Alok Mathur, J.)

Order Date :- 21.8.2025
RKM.