

Court No. - 50

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 538 of 2025

Petitioner :- Bano Bibi

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Dharendra Kumar Srivastav, Rajesh Kumar Srivastava

Counsel for Respondent :- Azad Rai, C.S.C.

Hon'ble Chandra Kumar Rai, J.

1. In view of the prayer made in the instant public interest litigation, instruction is required from the State and the Gaon Sabha.
2. Sri Nand Lal Maurya, learned standing counsel for the state-respondents and Sri Azad Rai, learned counsel for the respondent-gaon sabha shall obtain necessary instructions in the matter within 2 weeks.
3. Put up this matter as fresh on 2.4.2025.

Order Date :- 12.3.2025

C.Prakash

Court No. - 49

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 538 of 2025

Petitioner :- Bano Bibi

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Dharendra Kumar Srivastav, Rajesh Kumar Srivastava

Counsel for Respondent :- Azad Rai, C.S.C.

Hon'ble J.J. Munir, J.

In compliance with the order dated 12.03.2025, the learned Standing Counsel states that the instructions have not been received. The order dated 12.03.2025 reads:

"1. In view of the prayer made in the instant public interest litigation, instruction is required from the State and the Gaon Sabha.

2. Sri Nand Lal Maurya, learned standing counsel for the state-respondents and Sri Azad Rai, learned counsel for the respondent-gaon sabha shall obtain necessary instructions in the matter within 2 weeks.

3. Put up this matter as fresh on 2.4.2025. "

The learned Standing Counsel has produced before the Court a copy of the letter dated 17.03.2025 sent by him to the respondents which includes, the District Magistrate, Prayagraj, the Sub-Divisional Magistrate, Phoolpur, District- Prayagraj and the Tehsildar, Phoolpur, District- Prayagraj.

In the circumstances, let the District Magistrate, Prayagraj, the Sub-Divisional Magistrate, Phoolpur, District- Prayagraj and the Tehsildar, Phoolpur, District- Prayagraj file their personal affidavits within a week answering the petitioner's case in the writ petition and also explaining why, in compliance with the order dated 12.03.2025, instructions were not furnished to the learned Standing Counsel in good time.

Lay as **fresh** on **09.04.2025**.

Let this order be communicated to the District Magistrate, Prayagraj, the Sub-Divisional Magistrate, Phoolpur, District- Prayagraj and the Tehsildar, Phoolpur,

District- Prayagraj through the learned Chief Judicial Magistrate, Allahabad by the Registrar (Compliance) **within 24 hours.**

Order Date :- 2.4.2025

Prashant D.

Court No. - 49

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 538 of 2025

Petitioner :- Bano Bibi

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Dharendra Kumar Srivastav, Rajesh Kumar Srivastava

Counsel for Respondent :- Azad Rai, C.S.C.

Hon'ble J.J. Munir, J.

In compliance with the order passed on 02.04.2025, the District Magistrate, Prayagraj has filed his personal affidavit, where in paragraph no. 6, it is averred:

"6. That, on 07.04.2025, the demarcation was made by the revenue team with regard land in question which is found as below: -

(A) That, the crop was sown over the Gata No.460, which is recorded as 'Chak Marg', has been got vacated on the spot by the revenue team.

(B) That, the Gata No.469 recorded in the revenue record as 'Chak Marg' was found vacant on the spot, which is being used for public passage as well as for irrigation by farmers by making a kutchi Nali.

(C) That the Gata No.484 is recorded in the revenue record as 'Nali' and most of part is existed on the spot as Nali, but some part of it is found damaged.

(D) That, the Gata No.385 kha is recorded in the revenue record as 'banzar' and after demarcation, the encroachment of four persons by way of constructing pucca house were found on the spot. Regarding which, the Eviction Cases against said alleged encroachers have been instituted being Case Nos.T202502030205863 (Gram Sabha vs Banne), T202502030205859 (Gaon Sabha VS Gulsher), T202502030205861 (Gaon Sabha vs Bano Bibi, the petitioner herself) and Case No.T202502030205854 (Gaon Sabha vs Mansoor Alam) in the court of Tehsildar, under Section 67 of the U.P. Revenue Code, 2006 and the next date is fixed in the said eviction cases for 23.04.2025. For kind perusal of this Hon'ble Court, copies of the extract of case status of Case Nos.T202502030205863 (Gram Sabha vs Banne), T202502030205859 (Gaon Sabha vs Gulsher), T202502030205861 (Gaon Sabha vs Bano Bibi, the petitioner herself) and Case No.T202502030205854 (Gaon Sabha vs Mansoor Alam) are being filed herewith and marked as

Two other personal affidavits have been filed by the Sub Divisional Officer, Phoolpur, District Prayagraj and the Tehsildar, Phoolpur, District Prayagraj. Let these be taken on record and numbered by the office.

The petitioner will have liberty to file a rejoinder to the personal affidavit of the District Magistrate, Prayagraj by the next date fixed.

Learned Counsel for the petitioner, on the basis of instructions received from his client, states that encroachment has been removed only from Gata No. 460 and the other encroachment, detailed in paragraph no. 6 (B)(C)(D) of the personal affidavit of the District Magistrate, is standing as it is. Of course, the encroachment that is there mentioned in paragraph no. 6(D) would be there until orders are passed under Section 67 of the U.P. Revenue Code, 2006 and executed.

There is a very disturbing feature in this case brought to the notice this Court by the learned Counsel for the petitioner Mr. Dhirendra Kumar Srivastava. He has produced before this Court at the Bar Mr. Waseem Akhtar, an Advocate practising in Tehsil Phoolpur, District Prayagraj, who is the son-in-law of the petitioner. He has stated at the Bar before this Court that since our orders dated 02.04.2025 have been passed, Mr. Waseem Akhtar, Advocate is being extended death threats by the *Gram Pradhan* of Village Bahadurpur Kachhar Hetapatti, Tehsil Phoolpur, District Prayagraj, asking him to withdraw from prosecution of the present petition. In addition, the said *Pradhan* has threatened Mr. Waseem Akhtar of false implication in a case under the SC/ST(P.A.) Act.

Let the *Gram Pradhan* aforesaid, Jang Bahadur, be impleaded *eo nomine* by the learned Counsel for the petitioner forthwith.

The petitioner will implead the Commissioner of Police, Prayagraj, also forthwith.

Issue notice to the newly added respondent no. 6 Jang Bahadur, *Gram Pradhan* of Village Bahadurpur Kachhar Hetapatti, Tehsil Phoolpur, District Prayagraj,

ordering him to appear in person before this Court on **16.04.2025 at 02:00 p.m.**

This order shall be served upon the *Gram Pradhan* Jang Bahadur through the Chief Judicial Magistrate, Allahabad **forthwith**.

The Commissioner of Police, Prayagraj is directed to ensure that the process sent out by the Chief Judicial Magistrate is served immediately upon the *Gram Pradhan*.

Mr. Waseem Akhtar, Advocate claims that he has a call recording of the conversation carrying the threat.

Mr. Waseem Akhtar shall be conveyed forthwith by the Court Officer to the learned Registrar General, who will hear the conversation recorded in the mobile phone. Thereafter, he will permit Mr. Waseem Akhtar to remove his mobile SIM, after ensuring that the conversation recorded in his mobile phone can still be heard on the device. The recorded conversation attributed to the *Gram Pradhan* will be cause to be made a transcript of by the learned Registrar General and placed on the record of this Court. The mobile phone will be placed in a sealed cover and forwarded to this Court along with the transcript of the conversation.

Put up this matter as **fresh** on **16.04.2025**.

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

Let this order be communicated to the Chief Judicial Magistrate, Allahabad, who shall cause it to be served upon the newly added respondent no. 6, Jang Bahadur, *Gram Pradhan* of Village Bahadurpur Kachhar Hetapatti, Tehsil Phoolpur, District Prayagraj and the Commissioner of Police, Prayagraj by the Registrar (Compliance) **forthwith**.

Order Date :- 9.4.2025
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Court No. - 49

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 538 of 2025

Petitioner :- Bano Bibi

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Dhirendra Kumar Srivastav, Rajesh Kumar Srivastava

Counsel for Respondent :- Azad Rai, C.S.C.

Hon'ble J.J. Munir, J.

In compliance with the order dated 09.04.2025, this Court has received from the learned Registrar General two sealed covers. Apparently, one carries the petitioner's mobile phone and the other the transcript of the conversation recorded under the Authority of the Registrar General. The sealed cover has been opened by the Bench Secretary under our orders and laid before us.

We have perused the transcript of the conversation which *prima facie* carries objectionable and some threatening words from Jang Bahadur, Gram Pradhan, Village- Bahadurpur Kachhar Hetapatti, Tehsil- Phoolpur, District- Prayagraj to Mr. Waseem Akhtar, Advocate, the petitioner's relative.

One of the conversations indeed speaks about threatening Mr. Akhtar with implication in a case under the SC/ST Act with the usual contemptuous remark that it would make him forget all his skills in advocacy. Before any further action is taken on this part of the matter, let a certified copy of this transcript of the conversation, that has been recorded by four officers of the Registry and counter signed by the Joint Registrar (J) Computer dated 09.04.2025, be issued to Mr. Dhiraj Kumar Yadav, Advocate, appearing for Jang Bahadur, Gram Pradhan, Village- Bahadurpur

Kachhar Hetapatti, Tehsil- Phoolpur, District- Prayagraj, upon payment of the usual charges. Likewise, a certified copy of this transcript be also issued to the learned Counsel for the petitioner upon payment of the usual charges and the learned Standing Counsel free of charge.

It will be open to the learned Counsel for the sixth respondent, Jang Bahadur, to file his affidavit explaining the conversation. The affidavit shall be filed within a week.

On the merits of the matter, three affidavits have been filed by the petitioner each in answer to the personal affidavits filed by respondent no. 2, respondent no. 3 and respondent no. 4. Let these affidavits be taken on record and numbered by the office.

The categorical stand taken in the rejoinder affidavits, filed in reply to the personal affidavit filed by respondent no. 2, is that encroachment has been removed from plot no. 460 alone. The other plot, such as plot no. 469, which is a *chakmarg*, is still badly encroached by influential persons of the village who have raised fencing over it. Photographs of the *chakmarg* have been annexed. Likewise, plot no. 484 is also said to be encroached with a fencing. The photograph of that too is annexed. There are constructions in plot no. 385kha which is *banjar*.

In the circumstances, this matter is adjourned as **fresh** to **30.04.2025**.

To be taken up at **2.00 p.m.**

Jang Bahadur, Gram Pradhan, Village- Bahadurpur Kachhar Hetapatti, Tehsil- Phoolpur, District- Prayagraj, who is present in Court, will **appear again** on the next date fixed.

The mobile phone sent in the sealed cover shall go back to the

learned Registrar General to be retained in safe custody and produced again before the Court on the next date.

Let this order be communicated to the Sub-Divisional Magistrate, Phoolpur, District- Prayagraj and the Tehsildar, Tehsil- Phoolpur, District- Prayagraj through the learned Civil Judge (Senior Division), Allahabad by the Registrar (Compliance) **within 48 hours.**

Order Date :- 16.4.2025

Prashant D.

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 538 of 2025

Petitioner :- Bano Bibi

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Dharendra Kumar Srivastav, Rajesh Kumar Srivastava

Counsel for Respondent :- Azad Rai, C.S.C.

Hon'ble J.J. Munir, J.

On one part of the matter, that arose out of a threat extended over to Mr. Waseem Akhtar, Advocate, a Counsel in the petitioner's case before the Tehsildar, Tehsil-Phoolpur, District- Prayagraj, an affidavit has been filed by Jang Bahadur, Gram Pradhan, Village- Bahadurpur Kachhar Hetapatti, Tehsil- Phoolpur, District- Prayagraj. Let the affidavit be taken on record and numbered by the office.

Learned Counsel for the petitioner will have a week's time to file a counter, treating this affidavit to be the explanation to the offending telephonic conversation.

In the order, that we passed on the last day, that is 16.04.2025, we noticed the petitioner's stand regarding the encroachment that still subsists. The relevant part of the order dated 16.04.2025 reads:

"The categorical stand taken in the rejoinder affidavits, filed in reply to the personal affidavit filed by respondent no. 2, is that encroachment has been removed from plot no. 460 alone. The other plot, such as plot no. 469, which is a *chakmarg*, is still badly encroached by influential persons of the village who have raised fencing over it. Photographs of the *chakmarg* have been annexed. Likewise, plot no. 484 is also said to be encroached with a fencing. The photograph of that too is annexed. There are constructions in plot no. 385kha which is *banjar*."

The learned Standing Counsel is firm on his stand that there is no encroachment in plot no. 469, which is a *chakmarg*, plot no. 484 and plot no. 385kha, which is a *banjar*.

Before we are compelled to issue a commission, we grant an opportunity to the Collector, Prayagraj to inspect the Village- Bahadurpur Kachhar Hetapatti, Tehsil-Phoolpur and undertake an extensive inspection of plot nos. 469, 484 and 385kha in

order to ascertain whether there is any encroachment in the said plots.

Before the Collector decides upon the *factum* of encroachment, he will ensure that the plots in question are identified and demarcated utilizing the Total Station Method. He will file his own affidavit clearly indicating if there is any encroachment in plot nos. 469, 484 and 385kha of the village aforementioned.

The Collector's affidavit shall be filed, also within a week. During this period of time, he will undertake the necessary inspection.

This matter is adjourned as **fresh** to **12.05.2025**.

To be taken up at **2.00 p.m.**

On the said date, Jang Badadur, Gram Pradhan, Village- Bahadurpur Kachhar Hetapatti, Tehsil- Phoolpur, District- Prayagraj, who is present in Court today, will **appear again**.

The mobile phone, which is placed in a sealed cover and sent to this Court from the office of the learned Registrar General, shall be sent back to him for safe custody. It will be produced again on the next date. The cover has not been opened today.

Let this order be communicated to the Collector, Prayagraj through the learned Chief Judicial Magistrate, Allahabad by the Registrar (Compliance) **within 24 hours**.

Order Date :- 30.4.2025

Prashant D.

Court No. - 49

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 538 of 2025

Petitioner :- Bano Bibi

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Dharendra Kumar Srivastav, Rajesh Kumar Srivastava

Counsel for Respondent :- Azad Rai, C.S.C., Dhani Ram Pal, Dheeraj Kumar Yadav, Janardan Prasad Patel

Hon'ble J.J. Munir, J.

A personal affidavit has been filed on behalf of the Collector, Prayagraj which is taken on record, to which the petitioner has filed her reply. The reply is also taken on record. Let both be numbered by the Office.

Despite there being clear orders of this Court requiring the Collector, Prayagraj to inspect Village- Bahadurpur Kachhar Hetapatti, Tehsil- Phoolpur, Prayagraj, he has once again disobeyed our order and directed the inspection to be made by the Sub-Divisional Magistrate, Phoolpur, Prayagraj.

Prima facie, the Collector has acted in disobedience of our order dated 30.04.2025 in deputing the Sub-Divisional Magistrate, Phoolpur to undertake the inspection.

Let the Collector, Prayagraj appear before the Court in person tomorrow i.e. **13.05.2025 at 2:00 p.m.** to explain his conduct.

Adjourned to **13.05.2025**.

To be taken up in the daily cause list at **02:00 p.m.**

The Gram Pradhan, Village- Bahadurpur Kachhar Hetapatti, Tehsil-Phoolpur, District- Prayagraj, who is present in Court today, will **appear again tomorrow**.

The mobile phone, which is placed in a sealed cover and sent to this Court from the office of the learned Registrar General, has not been opened today. It shall be sent back to the learned Registrar General to be kept in his safe custody and will be produced again tomorrow.

Let this order be communicated to the Collector, Prayagraj through the learned Chief Judicial Magistrate, Allahabad by the Registrar (Compliance) **forthwith**.

Order Date :- 12.5.2025

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Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 538 of 2025

Petitioner :- Bano Bibi

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Dharendra Kumar Srivastav, Rajesh Kumar Srivastava

Counsel for Respondent :- Azad Rai, C.S.C., Dhani Ram Pal, Dheeraj Kumar Yadav, Janardan Prasad Patel

Hon'ble J.J. Munir, J.

A personal affidavit has been filed by Ravindra Kumar Mander, District Magistrate, Prayagraj, who is present in Court in person. In his affidavit, it is stated in paragraph Nos. 5, 6 and 7:

“5. That it is very humbly submitted that the Hon'ble Court directed the deponent to himself carry out the inspection of the plots in question. That is most humbly submitted that the deponent suffered a fracture on the right hand and same was operated that as the deponent was recovering from the fracture and was facing medical difficulty. Therefore, the deponent could not carry out the inspection by himself. For which the deponent tenders unconditional and unqualified apology before the Hon'ble Court for kind consideration of this Hon'ble Court.

6. That it is most humbly submitted that the deponent during the morning hours of 13.05.2025 has himself carried out the inspection of the Gata Nos. 469, 484, and 385-kha with the use of Total Station Method as was directed by the Hon'ble Court vide order dated 30.04.2025. True copy of the map prepared using the Total Station Method, the attendance memo, the report prepared on 13.05.2025 and the photographs are being collectively filed herewith and marked as **Annexure-1** to the present personal affidavit.

7. That it is humbly submitted as per the inspection carried out on 13.05.2025 there exists no encroachment on the Gata Nos. 469, 484 and with respect to encroachments found on Gata No. 385-Kha situated in Village-Bahadurpur Kachhar, Hetapatti, Tehsil Phoolpur, District-Prayagraj proceedings under Section 67 of the U.P. Revenue Code, 2006 had been instituted and are pending before the Tehsildar and the next date fixed in the matters are 02.06.2025.”

Along with the affidavit, there are photographs of the inspection, showing the presence of the deponent. The report of the inspection signed by the residents of the village is also there. The spot memo is there at page Nos. 9 to 11 of the personal affidavit filed today. When the District Magistrate/Collector was asked about the fact, if he was satisfied that there is no other encroachment. He assured the Court that he had got the plots identified, employing the total station method and the encroachments, that were there, have been reported. These are the same encroachments, which were noticed in the inspection dated 07.05.2025, carried by the Sub-Divisional

Officer, Phoolpur, District Prayagraj, who again carried out an inspection on 10.05.2025, employing the total station method.

The affidavit aforesaid filed by the District Magistrate, Prayagraj is taken on record. Let it be numbered by the office.

The learned Counsel for the petitioner will have a week's time to file a rejoinder affidavit, taking the personal affidavit of the District Magistrate to be a short counter affidavit.

Lay this matter as fresh again on **03.07.2025**.

In the meantime, the current status of proceedings under Section 67, instituted against the encroachers, will be reported through an affidavit of the Sub-Divisional Magistrate, Phoolpur, District Prayagraj.

The sealed mobile device received from the learned Registrar General shall be sent back to him and sent forth to the Court again on the next date fixed.

Let a copy of this order be communicated to the Sub-Divisional Magistrate, Phoolpur, District Prayagraj through the learned Chief Judicial Magistrate, Allahabad by the Registrar (Compliance) within 48 hours.

Order on Civil Misc. Exemption Application No. Nil of 2025

This exemption application has been filed supported by the Collector's personal affidavit, details of which have been mentioned in my order of date passed on the writ petition.

For the reasons recorded in that order, we find sufficient cause to exempt the personal attendance of the Collector. The personal presence of the Collector is exempted.

So far as the personal presence of the Pradhan is concerned, it is not exempted. He may file a better affidavit on the next date fixed, explaining his position, which is still not explained.

Order Date :- 13.5.2025

Anoop

Court No. - 49

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 538 of 2025

Petitioner :- Bano Bibi

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Dhirendra Kumar Srivastav, Rajesh Kumar Srivastava

Counsel for Respondent :- Azad Rai, C.S.C., Dhani Ram Pal, Dheeraj Kumar Yadav, Janardan Prasad Patel

Hon'ble J.J. Munir, J.

An affidavit has been filed on behalf of respondent no. 6- Jang Bahadur. Let it be taken on record and numbered by the office.

In the aforesaid affidavit, it is said that respondent no. 6 has no personal animosity with learned Counsel for the petitioner appearing in the Tehsil and he can never think about degrading any profession, much less the noble profession of law. He has also undertaken in paragraph no. 5 that he will never indulge in such an act in future.

At the same time, as we read the transcript of the telephonic conversation between the sixth respondent and the learned Counsel appearing for the petitioner appearing in the Tehsil, we find that he was just not personally aggressive towards the Counsel but spoke derogatory words for the legal profession. The entire transcript of the conversation is before us, recorded under the authority of the learned Registrar General.

Speaking in derogatory terms, about the legal profession, does not affect the profession alone but the entire Judicature of which the Bar is an integral part. There are not hundreds but thousands of remarks by Courts of Justice reminding Members of the legal

profession about their duties towards the litigants, the Court and their adversaries, virtually admonishing them, but very little has been thought about the strains under which the most important part of the judicature, that is to say, the Bar, functions in order to secure justice for the litigants.

It is sad that Members of the Bar, who virtually work like soldiers in times of peace to secure justice for citizens, are hurled with words of criticism from all quarters for the slightest human lapse or even matters beyond their control, working as they are under a very strained judicial system.

In these circumstances, for a member of the public, a litigant on the other side, to abuse a learned Counsel over telephone is a very serious matter which certainly, in our opinion, borders on criminal contempt. We did spare a thought of referring this matter to the criminal contempt Bench, forwarding the sixth respondent to that Bench, to be dealt with in accordance with law. But, given his unconditional remorse, we eschew that course and, instead, think that ends of justice would be met by administering him a severe warning to be careful in future and imposing upon him costs of Rs. 25,000/-, out of which Rs. 10,000/- will be paid to Mr. Waseem Akhtar, learned Counsel representing the petitioner before the Tehsil and Rs. 15,000/- deposited in account of the State Legal Services Authority. These costs shall be deposited by the sixth respondent within a period of fifteen days hence failing which these shall be recovered as arrears of land revenue by the Registrar General through the District Magistrate, Prayagraj.

In the circumstances, subject to the above orders, we exempt the personal presence of the sixth respondent.

The mobile phone, that has been sent forth to this Court by the

Registrar General in a sealed cover, shall be sent back to the Registrar General who will deliver it to Mr. Waseem Akhtar, learned Counsel representing the petitioner before the Tehsil.

Lay this matter as **fresh** on **09.07.2025**.

Let this order be communicated to the District Magistrate, Prayagraj through the learned Chief Judicial Magistrate, Allahabad by the Registrar (Compliance) **today**.

Let this order be also communicated to the learned Registrar General **today**.

Order Date :- 3.7.2025

Prashant D.

Court No. - 49

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 538 of 2025

Petitioner :- Bano Bibi

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Dhirendra Kumar Srivastav, Rajesh Kumar Srivastava

Counsel for Respondent :- Azad Rai, C.S.C., Dhani Ram Pal, Dheeraj Kumar Yadav, Janardan Prasad Patel

Hon'ble J.J. Munir, J.

Lay this matter as **fresh** on **18.07.2025**.

By that time, the learned Registrar General will make a report if the costs, awarded against respondent no. 6, have been deposited or realized.

Let this order be brought to the notice of the Registrar General **within 48 hours**.

Order Date :- 9.7.2025

Prashant D.