

Court No. - 50

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 482 of 2025

Petitioner :- Bhanu Pratap And 3 Others

Respondent :- State Of Uttar Pradesh And 6 Others

Counsel for Petitioner :- O.P. Tiwari, Uma Kant Misra

Counsel for Respondent :- C.S.C., Sudhir Bharti

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 Land Management Committee.

2. Mr. T. P. Gupta, learned Standing counsel for the State-respondents and Mr. Sudhir Bharti, learned Counsel for the Land Management Committee shall obtain instruction within two weeks.

3. Put up this matter as fresh on 25.03.2025.

Order Date :- 5.3.2025

PS*

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 482 of 2025

Petitioner :- Bhanu Pratap And 3 Others

Respondent :- State Of Uttar Pradesh And 6 Others

Counsel for Petitioner :- O.P. Tiwari, Uma Kant Misra

Counsel for Respondent :- C.S.C., Sudhir Bharti

Hon'ble J.J. Munir, J.

In compliance with the order dated 05.03.2025, written instructions dated 24.03.2025, signed by the Sub Divisional Officer, Khajani, Gorakhpur has been received. The relevant part of the instructions is quoted:

“1-ग्राम कटया तप्पा हवेली परगना उनवल तहसील खजनी जनपद गोरखपुर स्थित गाटा सं० 217 क्षेत्रफल 0.214 हे० राजस्व अभिलेख में श्रेणी 6 (1) अकृषित जलमग्न भूमि पोखरी अंकित है।

2-गाटा सं० 217 क्षेत्रफल 0.214 हे० के आंशिक भाग 0.050 हे० सन्तराज यादव पुत्र रामसेवक यादव ग्राम कटया तप्पा हवेली परगना उनवल तहसील खजनी जनपद गोरखपुर द्वारा मिट्टी पाटकर अवैध कब्जा किया गया था।

3-सन्तराज यादव पुत्र रामसेवक यादव नि०ग्राम कटया द्वारा किये गये पोखरी भूमि के अतिक्रमण के लिए दिनांक 12.07.2017 को तत्कालीन क्षेत्रीय लेखपाल श्री सूरज कुमार भारती द्वारा लोक सम्पत्ति क्षति निवारण अधिनियम के अन्तर्गत थाना हरपुर बुदहट जनपद गोरखपुर में प्रथम सूचना रिपोर्ट दर्ज कराई गई थी।

4-वर्ष 2020 में गाटा सं० 217 क्षेत्रफल 0.214 हे० पर जल निगम दशम शाखा, गोरखपुर द्वारा पानी की टंकी का निर्माण किये जाने की सूचना प्राप्त होने पर तत्कालीन उपजिलाधिकारी खजनी द्वारा दिनांक 18.12.2020 को निर्माण कार्य रोकने हेतु एक पत्र अधिशासी अभियंता जलनिगम दशम शाखा गोरखपुर को लिखा गया।

5-जल निगम दशम शाखा गोरखपुर द्वारा गाटा सं० 217 क्षेत्रफल 0.214 हे० पर किये जा रहे निर्माण को तत्समय रोक दिया गया था। निर्माण कार्य अभी भी रुका हुआ है। मौके पर केवल पिलर खड़े किये गये हैं।

6-गाटा सं० 217 क्षेत्रफल 0.214 हे० स्थित ग्राम कटया के 0.030 पर सन्तराज यादव पुत्र रामसेवक नि०ग्राम कटया द्वारा मकान निर्माण किये जाने की सूचना लेखपाल द्वारा दिया गया, जिस पर उक्त सन्तराज यादव पुत्र रामसेवक यादव के विरुद्ध बेदखली वाद सं० 2608/2025 गाँव सभा बनाम सन्तराज यादव योजित किया गया।

7-सन्तराज यादव पुत्र रामसेवक निवासी ग्राम कटया के विरुद्ध बेदखली वाद न्यायालय तहसीलदार न्यायिक खजनी के समक्ष विचाराधीन है। जिसमें अगली तिथि 24.04.2025 नियत है। वाद के सारांश की प्रति संलग्न है।”

Let a personal affidavit be filed by the Deputy Collector/Sub Divisional Officer, Tehsil Khajani, District Gorakhpur indicating the current status of proceedings in the case instituted for eviction of the trespasser in Plot No. 217. The said affidavit shall be filed on or before 11.04.2025.

Lay as fresh on **11.04.2025**.

Let this order be communicated to the Sub Divisional Officer, Tehsil Khajani, District Gorakhpur through the learned Civil Judge (Senior Division), Gorakhpur by the Registrar (Compliance) **within 48 hours**.

Order Date :- 25.3.2025

Vijay

Court No. - 49

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 482 of 2025

Petitioner :- Bhanu Pratap And 3 Others

Respondent :- State Of Uttar Pradesh And 6 Others

Counsel for Petitioner :- O.P. Tiwari, Uma Kant Misra

Counsel for Respondent :- C.S.C., Sudhir Bharti

Hon'ble J.J. Munir, J.

In compliance with the order dated 25.03.2025, a personal affidavit has been filed by the Sub Divisional Officer, Khajani, District Gorakhpur. It is taken on record. Let it be numbered by the Office.

In paragraph nos. 4 to 6 of the said affidavit, it is averred:

"4. That Gata No. 217 area 0.214 hectare situated in village Katya Tappa Haveli Pargana Unwal Tehsil Khajni District Gorakhpur is marked as category 6(1) non-cultivated submerged land pond in the revenue records. That earlier a part of Gata No. 217 admeasuring 0.050 hectare was illegally occupied by Santraj Yadav son of Ram Sewak Village- Katya, Tappa Haveli Tehsil Khajni by filling up soil and accordingly a first information report was lodged in the matter.

5. That on the part of Gata No. 217 admeasuring 0.214 hectare construction work of water tank by the Jal Nigam-V, Gorakhpur was initiated in the year 2020 and the same was stopped at that relevant point of time and it continues to remain stop till date.

6. That on receiving information by the Lekhpal about the construction of a house by Santraj Yadav son of Ramsevak resident of village Katya on 0.030 of land of Gata No. 217 situated in village Katya, a case for eviction has been instituted bearing Case No. 2608 of 2025; Computerized No. T202505310202608; Gaon Sabha Vs. Santraj Yadav on 24.03.2025 and the notice has been issued to the respondent no.7 and the next date fixed in the matter is 24.04.2024. True copy of the status-report of the Case No. 2608 of 2025; Computerized No. T202505310202608; Gaon Sabha Vs. Santraj Yadav is being filed herewith and marked as Annexure-1 to the present personal affidavit."

It is said in those paragraphs that Gata No. 217 admeasuring 0.214 hectares situate at Village Katya Tappa Haveli, Pargana Unwal, Tehsil Khajni, District Gorakhpur is recorded as non-cultivated submerged pond land in revenue records. It is admitted that a part of Gata No. 217 admeasuring 0.052 hectares was illegally occupied by one Santraj Yadav son of Ram Sewak, a native of the same village by filling up earth. A first information report is very casually mentioned to be lodged against the said Santraj Yadav.

In paragraph no. 5 it is said that in a part of Gata No. 217, admeasuring 0.214 hectares, construction work of the water tank by the Jal Nigam-V Gorakhpur initiated in the year 2020 and stopped 'at the relevant point of time and continues to

remain stopped till date.' It is then said in paragraph no. 6 that for the construction of a house by Santraj Yadav, a case for eviction has been instituted against him bearing Case No. 2608 where notice dated 24.03.2025 has been issued to him and 24.04.2024 is the next date fixed.

Let immediate steps be taken for conclusion of the proceedings under Section 67 of the U.P. Revenue Code, 2006 against the encroacher and an affidavit filed by the District Magistrate, Gorakhpur indicating how in the land of a pond a water tank is being constructed.

Learned Counsel for the petitioner says that after the orders of this Court, though the overhead tank has been abandoned constructions of, the adjoining room/building has been fast paced and completed.

The District Magistrate, Gorakhpur shall show cause by his own affidavit by the next date fixed how he and his subordinate officials have tried to defeat the orders of this Court by accelerating the pace of construction of a particular part of the project.

Lay as **fresh** on **30.04.2025**.

Let this order be communicated to the District Magistrate, Gorakhpur, through the learned Chief Judicial Magistrate, Gorakhpur by the Registrar (Compliance) **by Tuesday next**.

Order Date :- 11.4.2025

Vijay

Court No. - 49

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 482 of 2025

Petitioner :- Bhanu Pratap And 3 Others

Respondent :- State Of Uttar Pradesh And 6 Others

Counsel for Petitioner :- O.P. Tiwari, Uma Kant Misra

Counsel for Respondent :- C.S.C., Sudhir Bharti

Hon'ble J.J. Munir, J.

In compliance with our order dated 11.04.2025, a personal affidavit has been filed by the District Magistrate, Gorakhpur, where in paragraph nos. 5, 6 and 7 it is averred:

"5- That on being received the complaint with regard to above illegal construction of Water Tank on the land of Pokhari, the then Sub Divisional Magistrate, Khajani on 18.12.2020 has sent a letter to the Executive Engineer (Jal Nigam, 10th Branch, Gorakhpur) to stop the work of construction of Water Tank on the land of Pokhari i.e. Gata No.217 Area 0.214 Hectare.

6-That consequent to above, the construction work of Water Tank on the above land of Pokhari had been stopped, however, again the Jal Nigam on a part of the aforesaid project started the activities of construction and as soon as it came to know, the Jal Nigam has been directed to remove the activities of the aforesaid construction over the land of Pokhari and the Jal Nigam has got removed the above new construction, which has been inspected by the Area Lekhpal on 28.04.2025 and after inspection it is found that the newly constructed Pump House has been removed from the Gata No.217 Area 0.214 Hectare, upon which on the spot, the Area Lekhpal has prepared the Spot Memo on 28.04.2025, upon which the petitioner no.3 and other reputed villagers have put their signatures. True copy of the spot inspection report dated 28.04.2025 and the photographs of the spot, are being filed herewith and marked as ANNEXURE NO.PA.1 to this Personal Affidavit.

7. That for the negligence in duty by the Executive Engineer, Jal Nigam, Dasham Shakha, Gorakhpur, a show cause notice dated 26.04.2025 has been issued by the deponent seeking query as to why the construction of Water Tank has been started on the land of Pokhari and after the stop of the construction work as to why again construction work over the land has been started. True copy of the show cause notice dated 26.04.2025 is being filed herewith and marked as ANNEXURE NO.PA.2 to this Personal Affidavit."

Learned counsel for the petitioner submits that though construction work of the Pump House has been stopped and whatever was constructed for the Pump House has been removed, the pillars of

the over-head water tank have not been removed. The other submission is that so far as the encroachment done by respondent no. 7 is concerned, it stands as it is and the respondent authorities are content with instituting the proceedings against the 7th respondent under Section 67 with no steps being taken to ensure that those proceedings reach their logical conclusion and respondent no. 7 evicted.

Let a further affidavit be filed by the District Magistrate, Gorakhpur indicating, if pillars of the over-head water tank, already constructed, have been removed; or, as the petitioner says, the Pump House alone has been removed but not the pillars. The progress in the case under Section 67 instituted against respondent no. 7 shall also be reported in the further personal affidavit to be filed by the Collector, Gorakhpur on or before the next date fixed.

Lay as fresh on 15.05.2025.

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

Order Date :- 30.4.2025
Brijesh Maurya

Court No. - 49

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 482 of 2025

Petitioner :- Bhanu Pratap And 3 Others

Respondent :- State Of Uttar Pradesh And 6 Others

Counsel for Petitioner :- O.P. Tiwari, Uma Kant Misra

Counsel for Respondent :- C.S.C., Sudhir Bharti

Hon'ble J.J. Munir, J.

In compliance with the order dated 30.04.2025, a personal affidavit has been filed by the District Magistrate, Gorakhpur in Court today. It is taken on record. Let it be numbered by the Office.

In paragraph nos. 5, 6 and 7 of the said personal affidavit, it is averred:

"5. That in compliance with the aforesaid order passed by this Hon'ble Court, it is very humbly submitted that as per the report of the Tehsildar, Khajni, Gorakhpur, the Jal Nigam has removed the pillars of the earlier constructed water tank in the part of the arazi no. 217, area 0.214 hectare. True Copy of the report of the Tehsildar, Khajni, Gorakhpur, is being filed herewith and marked as Annexure No.P.A.1 to this affidavit.

6. That it is to be informed regarding the case instituted against the respondent no. 7 under section 67 of U.P. Revenue code that Tehsildar, Khajni has passed the final eviction order in case no. T202505310202608 Gram Sabha Vs. Santraj Yadav. Copy of the order of the Tehsildar, Khajni dated 07.05.2025 is being filed herewith and marked as Annexure No.P.A.2 to this affidavit.

7. That as per the report of the Tehsildar, Khajni the respondent no. 7 has removed his encroachment himself made over the Arazi No. 217 area 0.214 hectare and now there is no encroachment of the Santraj Yadav over the land in question having Arazi No. 217 area 0.214 hectare."

Learned Counsel for the petitioner says that the stand taken by the District Magistrate is absolutely false and misleading. The pillars of the constructed water tank are still standing in Arazi No 217 and so is the private encroachment by respondent no.7.

Let the learned Counsel for the petitioner file a rejoinder affidavit within three days bringing on record such evidence to *prima facie* show the existence of encroachment as learned Counsel states at the Bar.

Adjourned as fresh to **22.05.2025**.

Let this order be communicated to the District Magistrate, Gorakhpur through the learned Chief Judicial Magistrate Gorakhpur by the Registrar (Compliance) **within 48 hours**.

Order Date :- 15.5.2025

Vijay

Court No. - 49

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 482 of 2025

Petitioner :- Bhanu Pratap And 3 Others

Respondent :- State Of Uttar Pradesh And 6 Others

Counsel for Petitioner :- O.P. Tiwari, Uma Kant Misra

Counsel for Respondent :- C.S.C., Sudhir Bharti

Hon'ble J.J. Munir, J.

In compliance with the order dated 15.05.2025, a rejoinder affidavit has been filed today in Court, where a stand taken in paragraph nos. 14 and 15 is to the effect that private respondent no. 7, Sant Raj Yadav has not removed his house constructed in the land, which is a pond. It is not in dispute now that the Jal Nigam have removed their constructions that were there in Plot No. 217/0.214 hectare of Village Katya, Tappa Haveli, Pargana Unwal, Tehsil Khajni, District Gorakhpur.

Let the rejoinder affidavit be taken on record and numbered by the office.

Since there is a square dispute on facts whether respondent no. 7, Sant Raj Yadav is still in encroachment of a part of Plot no. 217 of Village Katya Tappa Haveli, Pargana Unwal, Tehsil Khajni, District Gorakhpur, let a Commission issue to the learned Judge, Small Causes Court, Gorakhpur to proceed to the site of plot no. 217 of Village Katya, Tappa Haveli, Pargana Unwal, Tehsil Khajni, District Gorakhpur **on 26.05.2025** after Court hours and cause the said plot to be identified employing the Three Fixed Point Method of survey as well as the Total Station Method.

The learned District Judge, Gorakhpur is directed to provide the services of a Survey Amin, proficient in surveying plots, employing the Three Fixed Point Method.

For the purpose of inspection of the concerned plot employing the Total Station Method, the Chief Engineer (Civil), Level-II, Public Works Department, Gorakhpur is ordered to provide a technical hand, trained in surveying plot using the Total Station Method. He is further ordered to provide the deputed hand with the necessary equipment to survey the plot employing the said method. The plot will be identified, both by the Survey Amin and the technical hand provided by the Chief Engineer in the presence of the learned Judge Small Causes Court, Gorakhpur.

The Commissioner of Police, Gorakhpur is directed to provide the learned Judge, Small Causes Court, Gorakhpur police force, in adequate strength, to enable him to smoothly carry out his commission. The entire staff, assisting the learned Judge Small Causes Court, Gorakhpur while executing his commission, which would include all officers and employees, including the police personnel, will act under the orders of the learned Judge, Small Causes Court, Gorakhpur.

After the plot has been identified, the learned Judge Small Causes Court, Gorakhpur will hold a local investigation in order to determine what area of the plot has been encroached. He will also discreetly find out if the sixth respondent is in encroachment of Plot no. 217 of Village Katya, Tappa Haveli, Pargana Unwal, Tehsil Khajni, District Gorakhpur. The entire proceedings of the commission will be minuted and the minutes of the commission separately submitted along with the commission report. The entire proceedings of the commission will be photographed employing a G.P.S. camera and also videographed. The stills and the videos shall both be enclosed with the report. The petitioners and the seventh respondent are at liberty to remain present during the commission.

Let this matter come up as **fresh** again on **29.05.2025** along with the report of the learned Judge, Small Causes Court, Gorakhpur.

Let this order be communicated to the Chief Engineer (Civil), Level-II, Public Works Department, Gorakhpur and the Commissioner of Police, Gorakhpur through the learned Chief Judicial Magistrate, Gorakhpur by the Registrar (Compliance) **within 24 hours.**

Let this order be also communicated to the learned Judge Small Causes Court, Gorakhpur and the learned District Judge, Gorakhpur by the Registrar (Compliance) **within 24 hours.**

Order Date :- 22.5.2025

Deepak

Court No. - 49

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 482 of 2025

Petitioner :- Bhanu Pratap And 3 Others

Respondent :- State Of Uttar Pradesh And 6 Others

Counsel for Petitioner :- O.P. Tiwari, Uma Kant Misra

Counsel for Respondent :- C.S.C., Rajesh Kumar Tiwari, Sanjeev Kumar Singh, Sudhir Bharti

Hon'ble J.J. Munir, J.

The Commission report is not there on record.

Put up tomorrow i.e. **30.05.2025 at 10:00 a.m.**

The Registrar (Compliance) and the Registrar of the concerned section shall ensure that the report of the commission issued be restored to file forthwith.

Order Date :- 29.5.2025

Vijay

Court No. - 49

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 482 of 2025

Petitioner :- Bhanu Pratap And 3 Others

Respondent :- State Of Uttar Pradesh And 6 Others

Counsel for Petitioner :- O.P. Tiwari, Uma Kant Misra

Counsel for Respondent :- C.S.C., Rajesh Kumar Tiwari, Sanjeev Kumar Singh, Sudhir Bharti

Hon'ble J.J. Munir, J.

On the request of the learned Standing Counsel, put up this matter as **fresh** on **04.07.2025**.

Order Date :- 30.5.2025

Deepak

Court No. - 49

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 482 of 2025

Petitioner :- Bhanu Pratap And 3 Others

Respondent :- State Of Uttar Pradesh And 6 Others

Counsel for Petitioner :- O.P. Tiwari, Uma Kant Misra

Counsel for Respondent :- C.S.C., Rajesh Kumar Tiwari, Sanjeev Kumar Singh, Sudhir Bharti

Hon'ble J.J. Munir, J.

A perusal of the Commission report, submitted by the Judge Small Cause Court, before being considered on its merits, discloses in paragraph no. 1 the very shocking fact that in compliance with our writ, the Senior Superintendent of Police, Gorakhpur did not provide the necessary police force to the learned Judge Small Cause Court, Gorakhpur executing our Commission as ordered by us *vide* order dated 22.05.2025.

The learned Civil Judge has reported disobedience of our orders by the Senior Superintendent of Police in the following words:

"1. Despite the Hon'ble High Court's order the SSP, Gorakhpur did not provide Police force while copy of the order served upon SSP Gorakhpur through CJM, Gorakhpur vide letter no. 943/CJM/Gorakhpur/Dated: 26.05.2025. When I reached at the spot, people and villagers were present and some of them argue & confront but due to my tactful conversation they become cool & calm and thereafter survey commission were started and completed successfully. The opposite party & some peoples who were present at the spot signed on the report but petitioners were escaped and did not sign the report."

The absence of the police force, quite apart from the fact that the Senior Superintendent of Police could not have disobeyed our order by any means to provide police force in requisite strength to the learned Judge to execute his Commission, has the more serious dimension to it that the learned Judge, while executing our Commission, had to fend for himself and depend on his own resourcefulness. He says in his report that he was faced by villagers who confronted him and it was by his tactfulness that he would calm them down and

carry out his Commission.

In the absence of the police force, if the learned Civil Judge had been assaulted or his security endangered, the matter would have taken a far more serious turn. To say the least, *prima facie*, the Senior Superintendent of Police, Gorakhpur has behaved in the most irresponsible fashion.

We gave time to the learned Standing Counsel to telephonically ascertain facts from the Senior Superintendent of Police. Whatever has been conveyed to us through the learned Standing Counsel is not coherent. It is rather mixed up and confounded.

In the circumstances, we think it appropriate to order the Senior Superintendent of Police, Gorakhpur to **appear in person** before us on **16.07.2025 at 2.00 p.m.** and explain the circumstances in which the learned Civil Judge had to go about the Commission without the necessary assistance of police force deputed by him in compliance with our orders dated 22.05.2025.

Lay as **fresh** on **16.07.2025 at 2.00 p.m.**

Let this order be communicated to the Senior Superintendent of Police, Gorakhpur through the learned Chief Judicial Magistrate, Gorakhpur by the Registrar (Compliance) **by Monday i.e. 07.07.2025.**

Order Date :- 4.7.2025

Prashant D.