



2025:AHC:176717

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD
PUBLIC INTEREST LITIGATION (PIL) No. - 2923 of 2025

Manoj Kumar Singh

.....Petitioners(s)

Versus

State of U.P. and 12
others

.....Respondents(s)

Counsel for Petitioners(s)	: Ashish Kumar Pandey, Bhuriguram Ji, Deo Brat Pandey
Counsel for Respondent(s)	: C.S.C., Pradeep Singh

Court No. - 50

HON'BLE PRAVEEN KUMAR GIRI, J.

1. Heard learned counsel appearing on behalf of the petitioner, Sri Pradeep Singh, learned counsel for the Bhumi Prabandhak Samiti and Sri Girjesh Kumar Tripathi, learned Additional Chief Standing Counsel for State respondent.

2. This present **Public Interest Litigation (PIL)** has been filed with the following prayers :-

"1. Issue, a writ order direction in the nature of mandamus commanding to the respondents to remove the illegal encroachment of the private respondent from the public utility land Gata No.-48 area 0.177 Hec., Gata No.-51 area 0.101 Hec. and also Gata No. 53 area 0.114 Hec which is recorded as a Babali in the revenue record of Vill - Chauka, Pargana - Bhuieli, Tehsil - Chunar, Dist - Mirzapur.

2. Issue, a writ order directing in the nature of mandamus commanding to the respondent No.3 to decide the representation date 22.07.2024 (Annexure No.3) within a stipulated period."

3. Learned counsel for the petitioner submits that **pond (babali)** has been encroached by some villagers and no action has been taken under Section 67 of the Uttar Pradesh Revenue Code, 2006 (for short 'Revenue Code') for removal of the encroachment.

4. During the course of argument, Sri Girjesh Kumar Tripathi, learned Additional Chief Standing Counsel has submitted instructions of Tahsildar, Chunar, Mirzapur informing that proceedings for removal of encroachment under Section 67 of the Revenue Code have been initiated. The instruction is taken on record.

5. Learned Counsel for the petitioner submits that he has **informed the authorities** including Tahsildar, Revenue Inspector, Village Pradhan as Chairman of the Bhumi Prabandhank Samiti (for short 'Samiti') and the Lekhpal as Secretary of the Samiti who are the custodian of the property of the State/Gram Panchayat/Gaon Sabha, but no action was taken by them. After filing of the present PIL, proceedings under Section 67 of the U.P Revenue Code 2006 has been initiated on 7.8.2025 and 8.9.2025 against the alleged encroachers.

6. This Court has gone through the provision of law, law laid down by the Hon'ble Supreme Court, High Court and also the facts of this case and thereafter has drawn opinion that in case any land belonging to the Gram Panchayat/Gram Sabha, encroached by any person, the office bearers of the Bhumi Prabandhak Samiti are under obligation as per Rule 66 of the Uttar Pradesh Revenue Code Rules, 2016 to inform the Tahsildar concerned to initiate proceedings under Section 67 of the Uttar Pradesh Revenue Code, 2006 for removal of encroachment from the public utility land and if no information or delayed information is given, action shall be taken against the Chairman i.e. Village Pradhan and Secretary i.e. Lekhpal of the Bhumi Prabandhak Samiti of the Village Panchayat as they are the custodian of the property.

7. The land recorded as '**pond (babali)**' in the Revenue record is **entrusted to the Bhumi Prabandhak Samiti** (hereinafter referred to as 'Samiti') comprising Village Pradhan as Chairman of the Samiti and

Lekhpal of the area as Secretary of the Samiti, however, they are not paying any heed to initiate proceedings for removal of the encroachment though they are the custodian of the public utility land and it appears that they are ignoring the encroachment of the land belonging to the Samiti/Gram Sabha by other persons which amount to conspiracy as well as abetment on the part of the Chairman, Secretary and other members of the Samiti.

8. **The provisions of Sections 28A and 28B of Uttar Pradesh Panchayat Raj Act, 1947** (herein after referred to as 'the Act, 1947'), are for **'Bhumi Prabandhak Samiti' and its functions.**

Sections 28A and 28B of the Act, 1947 are being delineated below:-

“Section 28-A. Bhumi Prabandhak Samiti – (1) The Gram Panchayat shall also be Bhumi Prabandhak Samiti and as such discharge the duties of up-keep, protection and supervision of all property belonging to or vested in or held by the Gram Panchayat under Section 117 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (U.P. Act No. 1 of 1951) or under any other provisions of that Act.

(2) The Pradhan shall be the Chairperson of the Bhumi Prabandhak Samiti, and the Lekhpal of the area comprised in the jurisdiction of the [Gram Panchayat] shall be its Secretary.

Section 28-B. Functions of the Bhumi Prabandhak Samiti – (1) The Bhumi Prabandhak Samiti shall, for and on behalf of the [Gram Panchayat] be charged with the general management, preservation and control of all property referred to in Section 28-A including –

(a) the settling and management of land but not including the transfer of any property for the time being vested in the 5 [Gram Panchayat] under Section 117 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act 1950 (U.P. Act No. 1 of 1951) or under any other provision of that Act;

(b) the preservation, maintenance and development of forests and trees;

(c) the maintenance and development of abadi sites and village communication;

(d) the management of hats, bazaars and meals;

(e) the maintenance and development of fisheries and tanks;

(f) the rendering of assistance in the consolidation of holdings;

(g) the conduct and prosecution of suits and proceedings by or against the Gram Panchayat relating to or arising out of the functions of Samiti;

(h) the performance of functions specifically assigned to the Bhumi Prabandhak Samiti under the U.P. Zamindari Abolition and Land Reforms Act, 1950 or any other enactment; and

(i) any other matter relating to such management, preservation and control as may be prescribed; and may exercise all powers of the 1

[Gram Panchayat] necessary for or incidental to the discharge of such duties.

(2) The Bhumi Prabandhak Samiti shall function subject to the provisions of the U.P. Zamindari Abolition and Land Reforms Act, 1950.”

9. The provision of **Section 34 of the Uttar Pradesh Panchayat Raj Act, 1947** also provides that all the public property situated within the jurisdiction of a Gram Panchayat is **vested** in the Gram Panchayat.

Section 34 of the U.P Panchyat Raj Act, 1947 reads as under :-

“Section 34. Property vested in the Gram Panchayat – (1) Subject to any special reservation made by the State Government, all public property situated within the jurisdiction of Gram Panchayat shall vest in and belong to the Gram Panchayat and shall, with all other property which may become vested in the Gram Panchayat, be under its direction, management and control.

(2) All markets and fairs or such portion thereof as are held upon public land shall be managed and regulated by the Gram Panchayat and the Gram Panchayat shall receive to the credit of the Gaon Fund all dues levied or imposed in respect thereof.”

10. As per **Sections 59, 60 and 61 of the Uttar Pradesh Revenue Code, 2006 read with Rule 56 of UP Revenue Code Rules, 2016** (for short 'the Rules, 2016'), the Samiti including its Chairman and Secretary are **entrusted with land** belonging to the Gram Panchayat as well as the local authorities for the purposes of superintendence, preservation, management and control. In case of damage, misappropriation or wrongful occupation of the property, the Chairman (Pradhan), Secretary (Lekhpal) and other members of the Samiti are under obligation to inform the Assistant Collector every year.

The provisions of Sections 59, 60 and 61 of the U.P Revenue Code 2006 read with Rule 56 of U.P Revenue Code Rules 2016 are being delineated below :-

“Section 59. Entrustment of land etc. to Gram Panchayats and other local authorities.- (1) The State Government may, by general or special order to be published in the manner prescribed, entrust all or any of the things specified in subsection (2), which vest in the State Government, to a Gram Panchayat or other local authority for the purposes of superintendence, preservation, management and control in accordance with the provisions of this Code.

(2) The following things may be entrusted to a Gram Panchayat or other local authority under subsection (1), namely-

(i) lands, whether cultivable or otherwise, except land for the time being comprised in any holding or grove;

(ii) grove standing on the Gram Panchayat land, pasture land, graveyard, cremation ground, manure pits, Khaliyans, Chakroads, link roads, sector roads, land in river bed, road, Sadak Khanti, Sullage farm;

(iii) forests and fisheries;

(iv) trees, other than trees in a holding or on the boundary of a holding or in a grove or abadi, or any trees on unoccupied land;

(v) hats, bazaars, melas, **tanks, ponds, water-channels**, private ferries, **pathways** and abadi sites;

(vi) subject to the provisions of the Treasure Trove Act, 1878, any properties specified in section 55 and belonging to the State Government.

(3) Every land and other thing-

(a) vested in a Gram Panchayat or any other local authority under the provisions of the Uttar Pradesh Consolidation of Holdings Act, 1953, or the Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960;

(b) placed under the charge of a Gram Panchayat or any other local authority under any of the enactments repealed by this Code;

(c) otherwise coming into possession of a Gram Panchayat or other local authority, either before or after the commencement of this Code; shall be deemed to be **entrusted to such Gram Panchayat or other local authority, as the case may be**, with effect from the date of commencement of this Code or from the date of such coming into its possession, for the purpose of superintendence, preservation, management and control, in accordance with the provisions of this Code.

(4) The State Government may, by a subsequent order to be published in the manner prescribed,-

['(a)] (i) add to, amend, vary or rescind any earlier order issued under sub-section(1)

(ii) convert any land entrusted or deemed to be entrusted or transferred to any Gram Panchayat or local authority, which is not covered under sub-section (1) of section 77 to a land covered under sub-section (1) of section 77.

Section 60. Superintendence, management and control by Bhumi Prabandhak Samiti. -(1) Subject to the provisions of this Code, every Bhumi Prabandhak Samiti shall be charged, for and on behalf of the Gram Panchayat, with the superintendence, preservation, management and control of all land and other things entrusted or deemed to be entrusted to that Gram Panchayat under section 59 or over which such Gram Panchayat is entitled to take possession under this Code or any other law for the time being in force.

(2) Without prejudice to the generality of the foregoing provisions, the functions and duties of the Bhumi Prabandhak Samiti shall include:-

(a) the settlement and management of land;

(b) the preservation, maintenance and development of forests, trees and pastures.

(c) the maintenance and development of abadi sites and village communications;

(d) the management of hats, bazaars and melas;

- (e) the maintenance and development of fisheries and tanks;*
- (f) the development of cottage industries;*
- (g) the development and improvement of agriculture;*
- (h) the conduct and prosecution of suits and proceedings by or against the Gram Panchayat; and*
- (i) such other matters as may be prescribed.*

Rule 56 of Rules, 2016

Duties of Chairman etc. 56. (1) In addition to the duties and functions specified in clauses (a) to (h) of section 60(2), the Chairman and every member of the Samiti shall be under an obligation to report to the Assistant Collector all cases of damage, misappropriation or wrongful occupation of the property entrusted or deemed to be entrusted to the Gram Panchayat.

(2) It shall be the duty of the Lekhpal to report to the Collector through the Tahsildar all cases of wrongful occupation of, damage to and misappropriation of property vested in the Gram Panchayat or any other land vested in the State, as soon as they come to his notice and in any case after the conclusion of Kharif and Rabi partial every year.

(3) The Tahsildar shall satisfy himself after expiry of the period of partial of Kharif and Rabi that, each Lekhpal has submitted such reports.

(4) The provisions of this rule shall mutatis mutandis apply to a local authority in respect of the properties vested in it, with the modification that the duty in respect of sub-rule (3) shall be discharged by such official as may be decided by such local authority.”

Section 61. Management of village tanks. - Where a tank in any village is entrusted or deemed to be entrusted to any Gram Panchayat under section 59, then, notwithstanding anything contained in any contract or grant or and law for the time being in force, its management by such Gram Panchayat shall be regulated by the following conditions, namely:-

- (a) where the area of the tank measures 0.5 acre or less, it shall be reserved for public use by the inhabitants of the village;*
- (b) where the area of the tank exceeds 0.5 acres, the Bhumi Prabandhak Samiti shall, with the previous approval of the Sub-Divisional Officer, let it out in the manner prescribed.*

Explanation. - For the purpose of this section, the term ‘tank’, includes talab, pond, pokhar and other land covered with water.

11. **Section 67 of U.P Revenue Code, 2006 read Rules 66 and 67 of, with the U.P Revenue Code Rules, 2016 provides for the prevention of damage, misappropriate and wrongful occupation of property belonging to Gram Panchayat and restore its possession after eviction.**

The provisions of Section 67 of the Revenue Code and Rules 66 and 67 of Rules 2016 are being delineated below : -

“Section 67. Power to prevent damage, misappropriation and wrongful occupation of Gram Panchayat property.- (1) Where any property entrusted or deemed to be entrusted under the provisions of this Code to a Gram Panchayat or other local authority is damaged or misappropriated, or where any Gram Panchayat or other authority is entitled to **take possession of any land** under the provisions of this Code and such land is occupied otherwise than in accordance with the said provisions, the Bhumi Prabandhak Samiti or other authority or the Lekhpal concerned, as the case may be, shall inform the Assistant Collector concerned in the manner prescribed.

(2) Where from the information received under sub-section (1) or otherwise, the Assistant Collector is satisfied that any property referred to in sub-section (1) has been damaged or misappropriated, or any person is in occupation of any land referred to in that sub-section in contravention of the provisions of this Code, he shall issue notice to the person concerned to show cause why compensation for damage, misappropriation or wrongful occupation not exceeding the amount specified in the notice be not recovered from him and why he should not be **evicted** from such land.

(3) If the person to whom a notice has been issued under sub-section (2) fails to show cause within the time specified in the notice or within such extended time as the Assistant Collector may allow in this behalf, or if the cause shown is found to be insufficient, the Assistant Collector may direct that such person shall be evicted from the land, and may, for that purpose, use or cause to be used such force as may be necessary, and may direct that the amount of compensation for damage or misappropriation of the property or for wrongful occupation, as the case may be, be recovered from such person as arrears of land revenue.

(4) If the Assistant Collector is of opinion that the person showing cause is not guilty of causing the damage or misappropriation or wrongful occupation referred to in the notice under sub-section (2), he shall discharge the notice.

(5) Any person aggrieved by an order of the Assistant Collector under sub-section (3) or subsection (4), may **within thirty days** from the date of such order, prefer **an appeal** to the Collector.

(6) Notwithstanding anything contained in any other provision of this Code, and subject to the provisions of this section every order of the Assistant Collector under this section shall, subject to the provisions of sub-section (5) be final.

(7) The procedure to be followed in any action taken under this section shall be such as may be prescribed.

Explanation. - For the purposes of this section, the word ‘land’ shall include the trees and buildings standing thereon.

RULE 66 Information to Assistant Collector : The information to Assistant Collector required by section 67(1) shall be submitted by the Chairman or any member or the Secretary of the Land Management Committee, or any officer of the Local Authority concerned in R.C. Form-19.

RULE 67 Further inquiry by Assistant Collector: (1) *On receipt of the information under rule 66, or on facts otherwise coming to his knowledge, the Assistant Collector may make such inquiry as he deems proper and may obtain further information regarding the following points:-*

(a) full description of damage or misappropriation caused or the wrongful occupation made with details of village, plot number, area, boundary, property damaged or misappropriated and market value thereof;

(b) full address along with parentage of the person responsible for such damage, misappropriation or wrongful occupation;

(c) period of wrongful occupation, damage or misappropriation and class of soil of the plots involved;

(d) value of the property damaged or misappropriated calculated at the circle rate fixed by the Collector and the amount sought to be recovered as damages.

(2) The Assistant Collector shall thereafter proceed to take action under section 67(2) and for that purpose issue a notice to the person concerned in R.C. Form-20 to show cause as to why compensation for damage, misappropriation or wrongful occupation not exceeding the amount specified in the notice be not recovered from him and why he should not be evicted from such land.

(3) If the notice referred to in section 67(2) remains uncomplied with or if the cause shown by the person concerned is found to be insufficient, the Assistant Collector may direct by order that-

(a) such person be evicted by using such force as may be necessary; or

(b) the amount of compensation for damage or wrongful occupation ordered by the Assistant Collector, if not paid in specified time, may be recovered as arrears of land revenue, including the amount of expenses referred to in sub-rule (3).

(4) The amount of damages sought to be recovered and the expenses of execution of the order shall be specified in such notice, which shall be determined in the following manner:-

(a) In the case of damage or misappropriation, the amount of damages shall be assessed at the prevailing market rate.

(b) In the case of unauthorized occupation of any land, the amount of damages shall be the amount equal to the five percent of the market value of the land calculated at the circle rate fixed by the Collector for each year of unauthorized occupation.

(c) The expenses of execution of the order shall be assessed on the basis of one day's pay and allowances payable to the staff deputed.

(5) If the person wrongfully occupying the land has done cultivation therein, he may be allowed to retain possession thereof until he has harvested the crops subject to the payment by him of the amount equal to the five percent of the market value of the land calculated as per the circle rate which shall be credited to the Consolidated Gaon Fund or the Fund of the local authority other than the Gram Panchayat as the case may be. If the person concerned does not make the payment of the aforesaid amount within the period specified in the notice in R.C. Form-20, the possession of the land shall be delivered to the Land Management Committee or the local authority, as the case may be, together with the crop: Provided that where such person again wrongfully occupies the same land or any other land within the jurisdiction of the Gram Panchayat or the local authority as the case may be, he shall be evicted therefrom forthwith and possession of the land vacant or together with the crop thereon shall be

delivered to the Land Management Committee or the local authority as the case may be.

(6) The Assistant Collector shall make an endeavour to conclude the proceeding under section 67 of the Code within the period of ninety days from the date of issuance of the show cause notice and if the proceeding is not concluded within such period the reasons for the same shall be recorded.

(7) Nothing in sub-rule (5) shall debar the Land Management Committee or the local authority as the case may be from prosecuting the person who **encroaches upon the same land **second time** in spite of having been evicted under the Code or the rules, under **section 447** of the Indian Penal Code, 1860. (8) There shall be maintained in the office of each Collector a register **in R.C. Form-21 showing details of the amount ordered to be realized on account of damages and compensation awarded in proceedings under section 67.****

(9) A similar register shall also be maintained by each tahsildar showing realization of damages and compensation awarded in such proceeding. The entries made in the register maintained at tahsil shall be compared with the register maintained by the Collector to ensure accuracy of the entries made therein.

(10) A progress report showing realization of damages and compensation awarded in proceedings under section 67 shall be sent to Board of Revenue, U.P., Lucknow by the fifteenth day of April and October every year. The Board after consolidating the report so received from the districts shall send it to the Government.

(11) Nothing in rules 66 and 67 shall debar any person from establishment of his right, title or interest in a court of competent jurisdiction in accordance with the law for the time being in force in respect of any matter for which any order has been made under section 67 of the Code.”

12. The R.C. FORM-19, R.C. FORM-20 and R.C. FORM-21 prepared under Rules 66 and 67 of Rules 2016 regarding furnishing of information to Assistant Collector, notice issued by the Assistant Collector to the unauthorized occupation of the property and register of the collector showing amount as realized on account of damages. The R.C. FORMS 19, 20 and 21 are being delineated below :-

R.C. FORM-19

[See Rule-66]

Information to Assistant Collector required by section 67(1) regarding
plot no.....area.....of the
Village.....Pargana.....Tahsil.....District.....

To,

The Assistant Collector/Tahsildar

Tahsil

District.....

Sir,

Sri.....s/o.....r/o Village.....Pargana.....

Tahsil.....District.....has wrongfully occupied or has caused or is

causing damage to, or misappropriation of, the property entrusted to the Gram Panchayat /local authorityspecified below :-

- (1) Plot No.....
- (2) Village
- (3) Tahsil.....
- (4)Area of Plot.....
- (5)Details of damage/misappropriation/unauthorised occupation.....
- (6) Year of the unauthorised occupation.....
- (7) Market value of the property calculated at the circle rate fixed by the Collector.....
- (8) Damages claimed

You are, therefore, requested to take necessary action against the unauthorised occupant aforesaid regarding recovery of damages/compensation and eviction of the unauthorised occupants.

Dated.....

The Chairman/Member/Secretary of LMC/
any other member of the Gram Sabha

R.C. FORM-20

[See Rule-67(2) and 67(5)]

In the Court of Assistant Collector/Tahsildar.....

Tahsil.....District.....

Case No.....of.....

Gram Panchayat/Local Authority.....

Versus

.....

To,

Sri.....

s/o.....

r/o.....

Whereas I am satisfied from the report/information dated.....of the Chairman /member/secretary of the Land Management Committee...../(name & address of other informant)/..... (name of the local authority) that you-

- (a) have damaged/ are damaging the property specified below;
- (b) have misappropriated the property specified below;
- (c) are in unauthorised occupation of the property specified below:

Details of property entrusted to the Gram Sabha/

Local authority to which this notice relates.

- (1)Plot No.....
- (2)Village
- (3)Tahsil.....
- (4)Area of Plot
- (5)Details of damage/misappropriation/unauthorised occupation.....
- (6)Market Value of the property damaged/misappropriated/unauthorised occupation.....
- (7) Damages claimed
- (8)Expenses of execution.....

Therefore, notice is hereby given to you that you should within.....days.....(1) remove the wrongful occupation and deposit the damages of 152 Rs.....and in case you want to harvest the crop before vacating the land, further deposit the amount of Rs.....as rent; (2) repair the damage or make good the loss on account of misappropriation, or/and deposit Rs.....as damages for causing damage to or misappropriation of the property entrusted to

the Gram Panchayat/local authority; (3) do or refrain from doing.....and appear before me in my court room on.....(date) at.....(time) to report compliance with this notice or to show cause against it.

You are also informed that in case you do not attend on the specified date and time either in person or through an advocate and do not file any objection against the show cause notice, a decision in the matter would be taken and orders shall be passed against you exparte.

Issued under my hand and the seal of the court thisday of20..

Seal of the Court
Officer.....

Presiding

Designation.....
Date.....

Note: Deposit of damages can be made either with the Chairman of the Land Management Committee or the Local authority, as the case may be, and receipt may be obtained.

R.C.FORM-21
[See Rule-67(8)]

Register showing details of the amount ordered to be realized on account of damages and compensation awarded in proceedings under section 67 of the Code

Tahsil.....District.....

SI. No.	Case Number and year	Names of the Parties	Date of order	Amount ordered to be realized	Amount realized	Remarks
1	2	3	4	5	6	7

13. For the purpose of proceedings under Section 67 of the U.P Revenue Code, 2006, the Government of Uttar Pradesh vide **Government Notification dated 29.12.2020** has authorised the **Tahsildar/ Tahsildar (Judicial)** to discharge the acts of **Assistant Collector**. The Government Order dated 29.12.2020 in Hindi as well as in English languages is being delineated below :-

"उत्तर प्रदेश शासन
राजस्व अनुभाग-1
संख्या- 1510 / एक-1 -2020 -रा0 -1
लखनऊ: दिनांक: 29 दिसंबर, 2020

अधिसूचना

उत्तर प्रदेश राजस्व सहित, 2006 (उत्तर प्रदेश अधिनियम संख्या 8 सन 2012) की धारा 14 की उपधारा (2) और धारा 219 के अधीन शक्तियों का प्रयोग करके राज्यपाल उक्त अधिनियम की धारा 67 के अधीन यथा विहित रूप में सहायक कलेक्टर के कृत्यों का निर्वहन करने के लिए दिनांक 11 फ़रवरी, 2016 से तहसीलदार और तहसीलदार (न्यायिक) को प्राधिकृत करती है।

Uttar Pradesh Shasan
Rajaswa Anubhag-1

In pursuance of the provisions of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of Notification no.1510/Ek-1-2020-R-1, dated 29 December, 2020 :

Notification
No.1510/Ek-1-2020-R-1
Lucknow: Dated 29 December, 2020

In exercise of the powers under sub-section (2) of section 14 and section 219 of the Uttar Pradesh Revenue Code, 2006 (U.P. Act no.8 of 2012), the Governor is pleased to authorize Tahsildar and Tahsildar (Judicial) to discharge the acts of Assistant Collector as prescribed under section 67 of the said Act, with effect from 11 February, 2016."

14. As per the provisions of Section 67 read with Rules 66 and 67 of Rules, 2016, it is the responsibility of the **Samiti** including **Chairman** i.e. **Village Pradhan** and **Secretary** i.e. **Lekhpal** to give information to the Tahsildar for taking action in respect of removal of encroachment from public land/public utility land belongs to the Gram Panchyat/ Gram Sabha, but they are not taking any action, nor the concerned Tahsildar is taking any action under Section 67 of Revenue Code to initiate proceedings for removal of encroachment.

15. As per **Rule 195 of the U.P Revenue Code Rules, 2016 and Section 233 of the Uttar Pradesh Revenue Code, 2006**, if any revenue officer does not decide the suit, application or proceedings or any other official does not submit the required report, it amounts to misconduct.

16. **Rule 195 of Rules, 2016 and Section 233 and 67 of the Revenue Code, 2006** give command to concerned authority of the district/State for taking action against the erring officials who was not taking action against the persons who have made encroachment on the public land/public utility land under the provisions of Revenue Code and Rules, 2016 as well as against Village Pradhan and Lekhpal of the village Panchyat as well as against Village Pradhan and Lekhpal of the Village Panchayat.

The provision of Rule 195 of Rules, 2016 and Section 233 of the Uttar Pradesh Revenue Code, 2006 are being delineated below:-

"Rule 195. Misconduct (Section 233).- If any revenue officer does not decide the suit, application or proceedings or any other official does not submit the required report within the stipulated period and the sufficient reason for the delay is not recorded, it would amount to **misconduct** under U.P. Government Servant (Discipline and Appeal) Rules, 1999."

Section 233. Rules. - (1) The State Government may, by notification, make rules for carrying out the purposes of this Code.

(2) Without prejudice to the generality of the foregoing power, such rules may also provide for-

- (i) The terms and conditions of service of the Chairman and other members of the Board;
- (ii) Regulating the distribution of business of the Board and making territorial division of its jurisdiction;
- (iii) Guidelines for alteration, abolition or creation of revenue areas;
- (iv) The procedure for demarcation of boundaries, the specification, construction and maintenance of boundary marks, levy and recovery of cost thereof;
- (iv-A) The procedure for survey operation and record operation including demarcation of abadi by the use of available modern technology and digitalization process;
- (v) The procedure of preparation and maintenance of maps, documents, statements, records and registers under this Code, procedure for their inspection and supply of certified copies or extracts thereof;
- (vi) The procedure for submission of reports about succession and transfer, by the registering authority to the Tahsildar and for revision of village records, including proceedings for mutation and correction of village records;
- (vii) The procedure for preparation, supply and maintenance of Kisan Bahi and matters connected therewith, including fees to be charged therefor;
- (viii) The procedure regarding plantation of trees on the sides of public roads, paths or canals and determination of disputes regarding trees in abadi and unoccupied land;
- (ix) The protection, preservation and disposal of properties belonging to or vested in the State Government, Gram Panchayat or other local authority, including determination of compensation for damages misappropriation or wrongful occupation thereof;**
- (x) The principles for assessment of land revenue, including its variation, remission, suspension and apportionment;
- (xi) The procedure for collection of land revenue and other public moneys, and the matters connected with the execution of various processes therefor, including the fixation of costs and collection charges;
- (xii) The procedure regarding fixation and commutation of rent, including circumstances in which the arrears of rent could be written off;
- (xiii) The procedure for appointment of legal practitioners in litigation relating to a Gram Panchayat or a Bhumi Prabandhak Samiti, and the terms and conditions of such appointment;
- (xiv) The procedure relating to conduct and prosecution of suits, appeals and other proceedings, including the procedure of conducting various inquiries under the provisions of this Code;
- (xv) The procedure for granting lease by the Collector, cancellation of such lease and eviction of unauthorized occupants from the land belonging to the State Government, Gram Panchayat and local authority;
- (xvi) The procedure regarding allotment of land entrusted to the Gram Panchayat, restoration of possession to the allottee and cancellation of such allotment;
- (xvii) The duties of any officer or authority having jurisdiction under this Code and the procedure to be followed by him;**
- (xviii) Imposition of limits of time within which any act specified under this Code has to be performed;
- (xix) The fees to be paid in respect of suits, appeals, applications and other proceedings under this Code;
- (xx) The regulation of fishing in rivers, lakes, ponds and tanks entrusted to a Gram Panchayat or other local authority;

(xxi) *The regulation of pasture lands, cremation or burial grounds, and catching, hunting and shooting of animals and birds in villages;*

(xxii) *Any other matter for which rules are required to be or may be made under this Code.*

(3) *The rules and orders made by the State Government or the Board before the commencement of this Code, under any of the enactments repealed and in force on the date of such commencement, shall, except to the extent of inconsistency with the provisions thereof, continue to be in force, until they are rescinded, altered or substituted in accordance with the provisions of this Code.*

(4) *It shall be lawful for the State Government, in making rules under this section, to prescribe that any person committing a breach of the same shall in addition to any other consequences that would ensue from such breach, be punishable with such fine not exceeding twenty five thousand rupees as the officer or authority specified for the purpose may deem fit to impose.”*

17. The **Village Pradhan is also Chairman** of the Bhumi Prabandhak Samiti and he is also *entrusted* with the property of the Gram Panchyat and if the property is encroached, then proceedings may be initiated against him under **Section 95(1)(g)(iii) of the U.P Panchyat Raj Act, 1947.**

The relevant provision of Section 95(1)(g)(iii) of the U.P Panchyat Raj Act, 1947 is delineated below:-

Section 95(1)(g)(iii):

(g) remove a Pradhan, Up-Pradhan or member of a Gram Panchayat or a Joint Committee or Bhumi Prabandhak Samiti, or a Panch, Sahayak Sarpanch or Sarpanch of a Nyaya Panchayat if he –

(iii) has abused his position as such or has persistently failed to perform the duties imposed by this Act or rules made thereunder or his continuance as such is not desirable in public interest, or”

18. **Section 28 of the U.P Panchyat Raj Act, 1947** describes that every *member* of a **Gram Panchyat** or **Committee** constituted under this Act is a **public servant** in the meaning of **Section 2(28) of Bhartiya Nyay Sanhita, 2023 (corresponding to section 21 of IPC, 1860).**

The provision of Section 28 of U.P Panchyat Raj Act, 1947 is being quoted below:-

“ Section 28: Members and servants to be public servants – Every member of servant of a Nyaya Panchayat, a Gram Panchayat, a joint committee or any other committee constituted under this Act shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.”

19. The property of *Gram Sabha* is entrusted to the *Bhumi Prabandhak Samiti*, therefore, the *Bhumi Prabandhak Samiti* is the *custodian of the said property*, and if the said property is encroached by any unauthorized person, the Chairman and the Secretary are under obligation to inform the Tahsildar under Rule 66 of the U.P Revenue Code Rules, 2016 and if they do not inform the Tahsildar about such encroachment and thereby fail to protect and preserve such property and such inaction on the part of the Members of the *Samiti*, including its *Chairman i.e. Village Pradhan and Secretary i.e. Lekhpal*, shall amount to criminal breach of trust under *Section 316 of the Bharatiya Nyay Sanhita, 2023 along with Criminal Conspiracy and Abetment*.

Section 316 of the Bharatiya Nyay Sanhita, 2023 which is being delineated below :-

“Section 316 of Bharatiya Nyay Sanhita 2023. Criminal breach of trust.

—(1) Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or willfully suffers any other person so to do, commits criminal breach of trust.

Explanation 1.—A person, being an employer of an establishment whether exempted under section 17 of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) or not who deducts the employee’s contribution from the wages payable to the employee for credit to a Provident Fund or Family Pension Fund established by any law for the time being in force, shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said Fund in violation of the said law, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.

Explanation 2.—A person, being an employer, who deducts the employees’ contribution from the wages payable to the employee for credit to the Employees’ State Insurance Fund held and administered by the Employees’ State Insurance Corporation established under the Employees’ State Insurance Act, 1948 (34 of 1948) shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said Fund in violation of the said Act, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.

20. Furthermore, if the *Village Pradhan* i.e. Chairman of the *Samiti* also fails to take necessary steps to inform the concerned *Tahsildar* in accordance with Rule 66(6) of the Rules, 2016, for initiation of proceedings under Section 67 of the Revenue Code, such omission should be treated as dereliction of duty and appropriate action should be taken against the Village Pradhan under Section 95(1)(g)(iii) of the Act, 1947, for removal from his post on the ground of failure to discharge his statutory duties.

21. It is hereby clarified that the completion of proceedings shall not be construed to mean merely passing of an order under Section 67 of the Uttar Pradesh Revenue Code, 2006. The proceedings shall be deemed to have been culminated and completed only upon the execution and enforcement of the said order at the site, ensuring actual removal of the encroachment and restoration of possession of the public land by the competent authority **within 90 days as provided under Rule 67 (6) of the Rules, 2016.**

22. There is a provision under the **Code of Civil Procedure, 1908 i.e. Order XLI Rule 5** that the matter pending in appeal does not amount to stay of the proceedings until and unless there is specific order of stay for non execution of the order. Thus if any Appeal is pending against order of Section 67 of the U.P Revenue Code, 2006, and in the appeal there is no interim order in favour of the encroacher, the order of removal of encroachment may be executed on the spot after 30 days.

The provisions of Order XLI Rule 5 is being delineated below : -

“Order XLI Rule 5 . Stay by Appellate Court—

(1) An appeal shall not operate as a stay of proceedings under a decree or order appealed from except so far as the Appellate Court may order, nor shall execution of a decree be stayed by reason only of an appeal having been preferred from the decree; but the Appellate Court may for sufficient cause order stay of execution of such decree.

[Explanation—An order by the Appellate Court for the stay of execution of the decree shall be effective from the date of the communication of such order to the Court of first instance but an affidavit sworn

by the appellant, based on his personal knowledge, stating that an order for the stay of execution of the decree has been made by the Appellate

Court shall, pending the receipt from the Appellate Court of the order for the stay of execution or any order to the contrary, be acted upon by the Court of first instance.]

(2) Stay by Court which passed the decree—Where an application is made for stay of execution of an appealable decree before the expiration of the time allowed for appealing therefrom, the Court which passed the decree may on sufficient cause being shown order the execution to be stayed.

(3) No order for stay of execution shall be made under sub-rule (1) or sub-rule (2) unless the Court making it is satisfied—

(a) that substantial loss may result to the party applying for stay of execution unless the order is made;

(b) that the application has been made without unreasonable delay; and

(c) that security has been given by the applicant for the due performance of such decree or order as may ultimately be binding upon him.

(4) [400]*[Subject to the provisions of sub-rule (3)], the Court may make an ex parte order for stay of execution pending the hearing of the application.*

[(5) Notwithstanding anything contained in the foregoing sub-rules, where the appellant fails to make the deposit or furnish the security specified in sub-rule (3) of rule 1, the Court shall not make an order staying the execution of the decree.]

23. In the case at hand, some of the villagers have encroached a water reservoir causing imbalance to the ecological system of that very village. The encroachment upon water bodies such as ponds, lakes, and other natural reservoirs leads to grave ecological imbalance and environmental degradation. These water bodies are essential for maintaining groundwater levels, supporting biodiversity, and ensuring a sustainable ecosystem. Their illegal occupation or conversion for private or commercial use disrupts the natural water cycle, causes depletion of groundwater, pollution, and loss of aquatic habitats, thereby affecting the right of the public to a clean and healthy environment. Such acts not only cause hardship and distress to the community but also violate the citizens' Fundamental Right to Life guaranteed under Article 21 of the Constitution of India, which has been judicially interpreted by the Hon'ble Supreme Court to include the right to live in a clean and pollution-free environment. Furthermore, such encroachments offend the principles of Article 14, as they create arbitrariness in the administration of natural resources meant for common use, and run contrary to the Directive Principles of State Policy under Article 48A and the

Fundamental Duty under Article 51A(g), which mandate the protection and improvement of the natural environment, including forests, lakes, rivers, and wildlife. In a short term it is said, “JAL HI JIVAN HAI” i.e. “Water is life”, thus without water there is no existence of life of any creature on Earth so it must be saved at any cost. Thus, no encroachment is permissible on water reservoir and it must be removed as early as possible with heavy penalty, cost and punishment.

24. In the case of **Dayaram Yadav and 2 Others vs State of Uttar Pradesh and 6 Others C.M.W.P. (P.I.L) No. 20672 of 2016**, the Allahabad High Court held that:

*“Non-enforcement of orders under Section 122-B or, as the case may be, under Section 67 is also a serious matter since it amounts to dereliction of duties on the part of the administration to enforce compliance of the orders for the removal of unauthorized encroachments. Undoubtedly, the persons who are affected by proceedings and orders, are entitled to pursue their rights and remedies in accordance with law. Hence, when these issues repeatedly come before this Court, a direction is issued for the purpose of verifying whether the order continues to hold the field or is subject matter of any other proceedings before a revisional forum. Where stay has been granted and where revisional remedies are pursued, the matter must be brought to expeditious conclusion. These guidelines which we have laid down, in addition to those of the judgment of the Division Bench in Om Prakash Verma (supra), are by way of guidelines to the **Principal Secretary (Revenue) who is the head of the administration** in such matters and matters pertaining to revenue. We now expect that the **Principal Secretary** shall duly apply his mind, preferably within a period of two months from today of the need to lay down a complete plan of action to ensure accountability on the part of the district administration and to ensure transparency in governance. The State is passing through a severe drought as a result of depletion of groundwater resources. Much of this situation is a result of rampant encroachments of the spaces which are earmarked for public utility purposes, including green areas, pasture lands and ponds etc. Unless serious steps are taken to remedy the situation, the situation will become more serious than the present.*

In these circumstances, this Court would be constrained to reiterate the guidelines which were issued in Om Prakash Verma (supra) and to further direct the State to strengthen the procedure for enforcement so as to secure the interest of the public.”

25. The Apex Court in **Hinch Lal Tiwari vs Kamla Devi and Ors. AIR 2001 SC 3215** has settled that the ‘ponds’ were a public utility meant for common use and they need to be protected. This judgment is later on

followed in **Jitendra Singh Vs. Ministry of Environment and others, (2020) 20 SCC 581**, wherein the Apex Court has highlighted the importance of village commons including water bodies and held that protection of village commons is essential safeguard to protect the fundamental right guaranteed by Article 21 of the Constitution of India.

The relevant paragraphs of the judgment are being delineated below :-

“19. There remains therefore no doubt that it is the responsibility of the respondents to ensure the protection and integrity of the environment, especially one which is a source for livelihood for rural population and life for local flora and fauna.

20. Protection of such village-commons is essential to safeguard the fundamental right guaranteed by Article 21 of our Constitution. These common areas are the lifeline of village communities, and often sustain various chores and provide resources necessary for life. Waterbodies, specifically, are an important source of fishery and much needed potable water. Many areas of this country perennially face a water crisis and access to drinking water is woefully inadequate for most Indians. Allowing such invaluable community resources to be taken over by a few is hence grossly illegal.

21. The respondents’ scheme of allowing destruction of existing water bodies and providing for replacements, exhibits a mechanical application of environmental protection. Although it might be possible to superficially replicate a waterbody elsewhere, however, there is no guarantee that the adverse effect of destroying the earlier one would be offset. Destroying the lake at Khasra Nos. 552 and 490, for example, would kill the vegetation around it and would prevent seepage of groundwater which would affect the already low water level in the area. The people living around the lake would be compelled to travel all the way to the alternative site, in this case allegedly almost 3 kms away. Many animals and marine organisms present in the earlier site would perish, and wouldn’t resuscitate by merely filling a hole with water elsewhere. Further, the soil quality and other factors at the alternate site might not be conducive to growth of the same flora, and the local environment would be altered permanently. The respondents’ reduction of the complex and cascading effects of extinguishing natural water-bodies into mere numbers and their attempt to justify the same through replacement by geographically larger artificial water-bodies, fails to capture the spirit of the Constitutional scheme and is, therefore, impermissible.”

26. In the catena of judgments including judgments in **State of Haryana and others Vs. Satpal and others, 2023 INSC 201**, and in Public Interest Litigation (PIL) No. 20672 of 2016 (**Dayaraj Yadav and others Vs. State of UP and others** decided on 6.5.2016), the Apex Court and the

High Court have upheld the strict enforcement against unauthorized encroachment on the public land/public utility land belonging to the village Panchayat.

27. In **Babu Ram vs. State of Himachal Pradesh and Anr.**, (Civil Appeal No. 13362 of 2024 decided on 28.11.2024), the Hon'ble Apex Court has held that citizens got no right to encroach upon the public land and the authorities must follow the fair procedure for eviction.

28. The Tahsildar Chunar District Mirzapur is directed to decide the pending proceedings of the Section 67 of Uttar Pradesh Revenue Code, 2006 within the period as mentioned under Rule 67(6) of Uttar Pradesh Revenue Code Rules, 2016.

29. In view of the above facts and circumstances, this Court feels sorrow that this Court is flooded with the umpteen number of PILs pertaining to the encroachment of public utility land in respect of proceedings of Section 67 of the Revenue Code, 2006.

30. Therefore, the District Magistrate of all districts and Sub-Divisional Magistrate of all Tehsils of State of Uttar Pradesh are directed to take action, initiating departmental proceedings treating as misconduct under Rule 195 of the Uttar Pradesh Revenue Code Rules, 2016 read with Section 233 Rule (ix) of the Uttar Pradesh Revenue Code, 2006 and criminal proceedings for criminal breach of trust under Section 316 of Bhartiya Nyay Sanhita, 2023 with abatement and conspiracy against the **area Lekhpal being Secretary of the Bhumi Prabandhak Samiti**, custodian of the Gram Panchayat property, if he is not giving information under Rule 66 of the Rules 2016 in respect of any encroachment on the land by revenue R.C. Form No. 19 to the concerned Tehsildar or Tehsildar (Judicial) within 60 days from the date of this order.

Furthermore, all the District Magistrates and Sub-Divisional Magistrate of State of Uttar Pradesh are also directed to take action,

initiating proceedings for removal of Pradhan of the Gram Panchayat under section 95(1)(g)(iii) of the Uttar Pradesh Panchayat Raj Act, 1947, treating as misconduct, not performing his duty as per rule 195 of the Uttar Pradesh Revenue Code Rules, 2016 read with section 233 Rule (ix) of the Uttar Pradesh Revenue Code, 2006 and criminal proceedings for criminal breach of trust under section 316 of Bhartiya Nyay Sanhita, 2023 with abetment and conspiracy as the **village pradhan being chairman of the Bhumi Prabandhak Samiti of the Gram Panchayat** is custodian of the property of the gram panchayat entrusted to him under law, if he is not informing under Rule 66 of the Uttar Pradesh Revenue Code Rules, 2016 in respect of encroachment of the land by the Revenue R.C. Form No. 19 to the concerned Tahsildar/Tahsildar (Judicial) within sixty days from the date of this order.

This Court also directs that if a **Tahsildar or Tahsildar (Judicial)** does not decide the encroachment proceedings provided under section 67 of the Uttar Pradesh Revenue Code, 2006 read with Rule 67(6) within ninety days from the date of show cause notice and no sufficient reasons recorded for delay, treating it misconduct under rule 195 of Uttar Pradesh Revenue Code Rules, 2016 read with section 233 Rule (xvii) of the Uttar Pradesh Revenue Code, 2006 for initiating departmental proceedings under Uttar Pradesh Government Servant (Discipline and Appeal) Rules, 1999 against him for punishment.

31. The above exercises i.e. removal of encroachment and taking action against the erring officers should be carried out within **Ninety days**, after providing opportunity of hearing to all the concerned persons including who have also encroached the public land entrusted to the Bhumi Prabandhak Samiti of the Gram Panchayat or any other authority. The entire process shall be done as per RC Form Nos.19, 20, 21 provided under the Uttar Pradesh Revenue Code Rules, 2016 for removal of encroachment. The public utility land shall be restored on its original nature so that it may be used for the purpose as it is created for in the revenue record.

32. The **police authorities** are directed to extend all necessary cooperation and assistance to the revenue authorities in the exercise of removal of encroachment from the public utility land. They shall also ensure that the process of removal of encroachment is carried out peacefully and without any hindrance, maintaining public order at all times.

33. The concerned respondent authorities shall communicate the action taken by them to the informant and the informant shall be provided opportunity of hearing at every stage of the proceedings. If any encroachment is still on State land/public utility land in the State of Uttar Pradesh and information is yet not given by Chairman i.e. Pradhan and Secretary i.e. Lekhpal to Tehsildar under Rule 66 of Uttar Pradesh Revenue Code Rules, 2016 to initiate proceedings under Section 67 of Uttar Pradesh Revenue Code, 2006 or Inspector or any other official of the department/authority to the competent authority for removal of encroachment, **civil contempt proceedings** may be initiated by any person, in the High Court for non compliance of this order of the High Court.

34. The *Additional Chief Secretaries/Principal Secretaries, of the concerned departments of Government of Uttar Pradesh* are directed to examine the matter in view of the continuing encroachments upon public land or land reserved for public utility purposes in the State of Uttar Pradesh. It is a matter of concern that such encroachments still persist despite availability of several officers entrusted with the duty of protecting and supervising the public utility land such as ponds, roads, parks, playgrounds, water covering areas etc. It is imperative that effective measures be taken to ensure the preservation, protection, and restoration of State land and public utility land, strictly in accordance with the provisions of the Uttar Pradesh Revenue Code, 2006 and the Rules, 2016 framed thereunder and also any other provisions of special Acts or Rules.

35. This Court is also directing that if any land belongs to the State Government or any local bodies/authorities, is illegally occupied or encroached by any person, the **Inspector** of the concerned department/authority or **any other official** is duty bound to inform the concerned authority of the department about the encroachment to initiate proceedings for removal of the encroachment and also restore the property in original form. In case, the concerned Inspector/official does not inform about any kind of encroachment on the said land and information comes otherwise, departmental proceedings for misconduct and criminal proceeding of criminal breach of trust treating also as abettor as well as conspirator shall be initiated against him as well as other erring official as he/they are the custodian of the properties entrusted to them as government authorities.

36. This Court further directs that if any land, recorded in the revenue record of a tahsil or record of a local body, in the name of authority or for public use; if the land is encroached by any person, the encroachment shall be removed by the tahsildar or any other authority of the local bodies within the time frame as prescribed under the law. Furthermore, if any land of any authority is encroached by any person and its information comes in the knowledge of the higher authority otherwise, rather than by the concerned Inspector or other official under obligation to inform and if the **higher authority is not** taking action against the Inspector or other official, the role of higher authority may be assumed as abettor or conspirator in respect of the encroached property as the officers of the authority are custodian of the property.

37. Mr. Girjesh Kumar Tripathi, learned Additional Chief Standing Counsel representing the State of Uttar Pradesh is directed to communicate this order to the Chief Secretary, Government of Uttar Pradesh, Additional Chief Secretaries/Principal Secretaries, of the concerned departments of Government of Uttar Pradesh, the Commissioners, the District Magistrates, the Chairmen/Secretaries/In-charge officers of the concerned departments of the State of Uttar Pradesh to communicate this order to the Sub Divisional Magistrates/the Assistant Collectors/Tahsildars/Tahsildars (Judicial) of the

concerned Tehsils and Inspectors/officers of the concerned department for compliance in respect of removal of encroachment and restoration of State land as well as public utility land to its original form in the State of Uttar Pradesh.

38. The Commissioners, the District Magistrates, the Chairmen/Secretaries/In-charge officers of the concerned departments of the State of Uttar Pradesh are further directed to intimate the Additional Chief Secretaries/Principal Secretaries of the concerned departments of Government of Uttar Pradesh about the action taken by them regarding the removal of encroachment as well as action taken against the erring officials every year.

39. In view of the above direction, this petition (PIL) is disposed of with no order as to costs.

(Praveen Kumar Giri,J.)

October 6, 2025

DKS