

(2025) 10 AHC CK 0030

Allahabad HC

Case No: Writ C No. 5107 Of 2023

Mahesh Chandra Tiwari And 4
Others

APPELLANT

Vs

State of U.P. And 3 Others

RESPONDENT

Date of Decision: Oct. 13, 2025

Acts Referred:

- Constitution of India, 1950 — Article 226

Hon'ble Judges: Dr. Yogendra Kumar Srivastava, J

Bench: Single Bench

Advocate: Deepak Kumar Srivastava, Sher Bahadur Singh

Final Decision: Dismissed

Judgement

Dr. Yogendra Kumar Srivastava, J

1. Heard Sri Deepak Kumar Srivastava, learned counsel for the petitioners and Sri Abhishek Shukla, learned Additional Chief Standing Counsel appearing for the State respondents.

2. The present petition has been filed seeking issuance of a writ of mandamus directing the respondents to restrain the ongoing construction of a pond over Gata No. 14, Area 0.38 hectare, situate in Village Daudpur @ Murad Gaon, Tehsil Sadar, District Shahjahanpur, or, in the alternative, to pay appropriate compensation to the petitioners in respect of the said land.

3. As per the averments made in the writ petition, the competent authority had, upon due verification, granted a lease in favour of the petitioners in the year 1999, and the petitioners claim to have been in

possession of the aforesaid parcel of land since then. It is stated that respondent no. 4, the Gram Pradhan, commenced construction of a pond over the said plot, which the petitioners opposed. Notwithstanding such objections, the construction activities were continued.

4. It has further been stated that an application dated 29.11.2022 was submitted by the petitioners before the Sub-Divisional Magistrate, Sadar, Shahjahanpur, seeking restraint upon the construction over the leased land. Pursuant thereto, on 02.12.2022, directions were issued to the Station House Officer and the Revenue Inspector concerned to make an inquiry in accordance with law.

5. The petitioners thereafter submitted representations dated 13.12.2022 before the District Magistrate, Shahjahanpur, as well as the Sub-Divisional Magistrate, Sadar, and other authorities, reiterating their grievance that construction of the pond was being carried out illegally over their land, despite their names being duly recorded in the revenue records.

6. It is alleged that despite the representations and directions for inquiry, no effective action was taken by the authorities, and the construction continued unabated. The petitioners assert that the land in question stands recorded in their names and that no notice or opportunity of hearing was ever afforded prior to the initiation of construction.

7. In the aforesaid circumstances, the petitioners approached this Court invoking its extraordinary jurisdiction under Article 226 of the Constitution of India, seeking protection of their rights and redressal of their grievance regarding the alleged illegal construction.

8. A copy of the Khatauni extract of Fasli 1425-30, in respect of the village in question has been filed as Annexure-3 to the writ petition indicating therein that the petitioners along with certain other persons are recorded as tenure holders over land bearing Gata No. 14Ba. The representation which has been placed on record also contains reference to the petitioners' assertion in regard to Gata No. 14Ba.

9. Counsel for the State respondents has placed reliance on the Counter Affidavit filed on behalf of respondent nos.2 and 3, wherein it has been averred that the pond has been constructed under the 'Amrit Sarovar Yojana' over land bearing Gata No. 14, recorded as Banjar, and that the petitioners are not concerned with the same. It has been further stated that in the Khatauni of Fasli 1425-30 the petitioner is recorded over Gata No.14Ba. The Khatauni extract in respect of Gata No. 14, Fasli 1425-30, has also been placed on record along with counter affidavit, as Annexure CA-1, which indicates that the plot is recorded as Banjar.

10. It is submitted by the counsel for the State respondents that the aforestated assertions made in the counter affidavit have not been specifically denied in the rejoinder affidavit of the petitioner.

11. From a perusal of the counter affidavit it is clear that the State respondents have categorically asserted that land bearing Gata No.14, area 7.458 hectares of Khata No. 145, is recorded as Banjar and the construction of the pond under the 'Amrit Sarovar Yojana', is being carried out upon the said plot, and that the petitioners have no concern with the same. In reply to the aforesaid assertion made in the counter affidavit, there is no specific denial in the rejoinder affidavit of the petitioners.

12. Counsel for the State respondents has placed reliance on a decision of this Court in *Raj Kumar Bind Vs. State of U.P. And 4 Others* 2023 (5) ADJ 562, to explain the scope and importance of 'Mission Amrit Sarovar' Scheme.

13. The decision in the case of *Raj Kumar Bind* (supra) takes notice of the 'Mission Amrit Sarovar' scheme launched by the Government of India at the national level, aimed at developing and rejuvenating water bodies in each district of the country as part of the celebration of 'Azadi Ka Amrit Mahotsav' to commemorate 75 years of independence of the country.

14. Attention of the court is drawn to the fact that development of 'Amrit Sarovars' are a symbol of constructive action adopted by the government on the occasion of 'Azadi Ka Amrit Mahotsav' and would create sustainable and long term productive assets beneficial to both the sentient beings and the environment. It is also pointed out that 'Amrit Sarovars' would play an important role in increasing the availability of water both on surface and underground.

15. Counsel for the State respondents has also drawn attention to a Government Order dated 27.4.2022, also noticed in the aforesaid judgment, to point out that the 'Amrit Sarovar' Scheme was launched as part of celebration of 'Azadi Ka Amrit Mahotsav' to commemorate 75 years of independence of the country. It is pointed out that as per directions issued by the Government, 'Amrit Sarovars' are to be developed in each district and the responsibility of maintaining them, would be of the concerned Gram Panchayats.

16. From a perusal of the pleadings and the material brought on record, the position that emerges, is that the land bearing Gata No.14 is recorded as Banjar in the revenue records and the construction of pond under the 'Amrit Sarovar Yojana' was being made over the said plot and not over the plot over which the petitioners claim to be recorded as tenure holders.

17. The objective of the 'Mission Amrit Sarovar' scheme, as reflected from the Government Order and the guidelines which have been referred, is indicative of the fact that the development of 'Amrit Sarovars' is envisaged for augmenting water resources and improving water ecology with a view to create sustainable and long term productive assets. This Court is mindful of the basic legal principle that while individual rights and interests would enjoy constitutional protection, they may be subordinated in appropriate cases to the exigencies of public interest or public necessity. While Courts would scrutinize administrative actions that impinge on individual rights, such rights may be regulated or restricted where there exists a demonstrable and overriding public interest. The scheme being for a larger public purpose any individual interest, if in conflict, would have to yield to the community interest. The principle is encapsulated in the maxim *necessitas publica major est quam privata* - public interest is greater to private interest.

18. This Court may also take notice of the well settled principle that entries in the revenue record carry a presumption of correctness unless rebutted by cogent evidence. The petitioners, in the present case, have failed to bring on record any material to establish that the land over which the pond is being constructed is recorded in their name or that it forms part of their holding. Mere filing of representations, unsupported by documentary proof showing title or possession, cannot dislodge the inference which is to be otherwise drawn on the basis of entries in the revenue records indicating the land as Banjar.

19. The construction of pond, regarding which a restraint is sought being a welfare-oriented and environment-protective initiative undertaken in the larger public interest, any interference in implementation of the same may be warranted only when there is clear violation of individual rights or statutory provisions. No such violation has been demonstrated in the present case.

20. In absence of any demonstrable infringement of petitioners' recorded rights or possession, no ground for interference under Article 226 of the Constitution is made out.

21. The writ petition therefore is bereft of merits and it is accordingly dismissed.