



HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 38819 of 2025

Badal Chatterjee

.....Petitioner(s)

Versus

State Of U.P. And 6 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Chandan Sharma, Rahul Agarwal
Counsel for Respondent(s)	: C.S.C., Harsh Vardhan Gupta, Vibhu Rai

Court No. - 40

HON'BLE SARAL SRIVASTAVA, J.

HON'BLE SUDHANSHU CHAUHAN, J.

1. Heard Sri Chandan Sharma, learned counsel for the petitioner, Sri M.C. Chaturvedi, learned Senior Counsel assisted by Sri Vibhu Rai and Sri Abhinava Krishna Srivastava, learned counsel for respondent-Prayagraj Development Authority and Sri Rakesh Pande, learned Senior Counsel assisted by Sri Dheeraj Singh and Sri Udai Chandani, learned counsel for respondent nos.6 & 7.

2. The petitioner by means of the present writ petition has prayed for the following relief:-

"i. Issue a writ, order or direction in the nature of mandamus directing the respondents to immediately stop the commercial construction being carried out by Prayagraj Development Authority, Prayagraj on Plot No.64, Katra Housing Scheme, House No. 70-A/67 and part of House No. 70-A, Dilkusha Park, Naya Katra, Prayagraj.

ii. Issue a writ, order or direction in the nature of mandamus directing the respondents to demolish the entire commercial structure being raised on Plot No. 64, Katra Housing Scheme, House No. 70-A/67 and part of House No.70-A, Dilkusha Park, Naya Katra, Prayagraj in complete violation of the relevant provisions of the building byelaws.

iii. Issue a writ, order or direction in the nature of mandamus directing for an independent inquiry by a Court-appointed Commissioner or a neutral Town Planning Expert to verify the current status of construction on the disputed site.

iv. Issue any other writ, order or direction, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

v. Award costs of the petition in favour of the petitioner."

3. In compliance of the order of this Court, the Vice Chairman of PDA is present before this Court, who has been duly identified by Sri Vibhu Rai, learned counsel for the PDA.

4. The petitioner claims that he is living in his parental House No.70/66 Dilkusha New Katra, Prayagraj. According to the petitioner, New Katra Housing Scheme residential lay out plan was sanctioned by the Improvement Trust at the time of construction of the petitioner's house around 1937. The petitioner states that he is a permanent resident of locality of Dilkusha, New Katra, Prayagraj which has been notified as residential area.

5. The petitioner case is that respondent nos. 6 & 7 are the owner of Plot No.64 Katra Housing Scheme (now House No. 70-A/67), Dilkusha Park, New Katra Prayagraj. The respondent nos.6 & 7 got a map sanctioned from Prayagraj Development Authority (hereinafter referred to as 'PDA') for raising construction over the said plot. However, respondent nos.6 & 7 instead of raising construction as per the plan approved by the PDA started deviating from the approved plan, and raised construction which are beyond the permissible limit of compounding under the compoundable scheme.

6. As per the approved plan, the respondent nos.6 & 7 had to leave the set back, but no set back was left. The respondent nos.6 & 7 have constructed the basement beyond the permissible limit under the approved map and have also deviated on the first, second and third floor of the building. The respondent no.4 has raised construction on the fourth floor whereas under the approved map, there could not be any construction on the fourth floor.

7. Since the petitioner's house is very old and construction is raised against approved map which could weaken the foundation of the petitioner's house, and further because of no set back being left, the petitioner's right to air and sunlight is obstructed, therefore, petitioner submitted an application before the PDA and requested the authorities to take appropriate action against respondent nos.6 & 7 for raising illegal construction.

8. The Prescribed Authority of PDA passed an order dated 03.05.2025 sealing the premises of respondent nos.6 & 7.

9. However, respondent no.6-Smt. Seema Singh submitted an application on 20.05.2025 to the Secretary of PDA for de-sealing the property since there was water logging in the basement of the building which could damage the foundation of the petitioner's house. She further stated in the application that she would raise construction strictly in accordance with map approved by the PDA. The application dated 20.05.2025 is reproduced herein below:-

"महोदय,

प्रार्थिनी के प्लॉट का स्वीकृत मानचित्र PDA/BP/24-25/0943 है। यह प्लॉट संख्या-64 कटरा हाउसिंग स्कीम पुराना मकान न० 70/67A है। प्रार्थिनी के मकान

के पूर्व दिशा की ओर पुराने मकान के बाउंड्री से 4 फीट की दूरी पर बादल चटर्जी जी का मकान है। निर्माण कार्य करने से पहले ही बादल चटर्जी जी से बातचीत करके उनकी सहमति से कार्य प्रारम्भ करायी। कार्य प्रारम्भ होने के तत्पश्चात बादल चटर्जी जी के तरफ से तरह-तरह के आक्षेप लगने लगे और पी० डी० ए० में निराधार आरोप लगाना शुरू कर दिये। यहां तक कि बादल चटर्जी जी से मैं मिली भी और उनसे विनम्र आग्रह भी किया कि हमारे निर्माण के वजह से आपको कोई भी नुकसान नहीं होगा यहां तक कि मैं खुद अपने खर्च से उनकी बाउंड्रीवॉल बनवाने का प्रस्ताव रखी तो वो सकारात्मक दिखे।

विनम्र निवेदन है कि निर्माणाधीन बेसमेंट में पानी भर रहा है, जिससे बगल के मकान को क्षति हो सकती है अतः श्रीमान जी से निवेदन है कि निर्माण स्थल से सील हटवाने की कृपा करें जिससे कि कार्य प्रारम्भ कर नुकसान से बचा और बचाया जा सके जिससे कि प्रार्थी सदा आभारी रहे। स्वीकृत मानचित्र के अनुसार मैं निर्माणकार्य कराउंगी जो भी डेविएशन होता है मैं उसका कम्पाउंडिंग शुल्क जमा करूंगी।

10. The respondent no.6 also gave an affidavit stating therein that deviation in the construction of the building would be demolished by her on her own expenses and would raise further construction strictly in accordance with the map approved by the PDA, and accordingly, prayed for de-sealing of the premises. The contents of the affidavit address to the Zonal Officer, PDA is reproduced below:-

" शपथ पत्र द्वारा सीमा सिंह निवासिनी प्लॉट न०. 64 कटरा हाउसिंग स्कीम जोन-1, प्रयागराज उ०प्र०।

शपथकर्त्री शपथपूर्वक निम्नलिखित बयान करती हूँ :

01 यह कि प्रयागराज विकास प्राधिकरण द्वारा प्लॉट का स्वीकृत मानचित्र पी०डी०ए०/बीपी/2024-25/0943 है।

02 यह कि उक्त प्लॉट पर निर्माण कार्य में जो भी विचलन हुआ है वह स्वयं से हटवाकर प्राधिकरण द्वारा स्वीकृत मानचित्र के अनुसार निर्माण कार्य किया जायेगा।

03- यह कि उक्त प्लॉट प्राधिकरण द्वारा की गई कार्यवाही (सील) से अवमुक्त किया जाय।"

11. We fail to understand under which power the then Secretary granted approval on 02.06.2025 to de-seal the property on the basis of the affidavit given by respondent no.6 without removing the illegal construction raised beyond the compoundable limit, and based on the said approval, the Zonal Officer passed an order on 03.06.2025 for de-sealing the property.

12. The respondent nos.6 & 7 did not stop at this stage from committing illegality in raising construction. Despite the undertaking given in the form of affidavit to the Zonal Officer, extracted above, respondent nos.6 & 7 continued to raise construction illegally with impunity without having any fear of law beyond permissible limit of compounding. It is needless to say that such construction could not have been raised except with the connivance of the authorities of PDA.

13. It is shocking that the authorities do not have empathy for the residents in a locality where such an illegal construction has been raised under the eyes of PDA without appreciating that the construction of basement beyond permissible limit could damage the foundation of the petitioner's house which could result in collapse of the petitioner's house which could further lead to damage to the property as well as loss of human life, and further such an illegal construction would affect the easementary rights of the petitioner with no set back being left, though under approved plan, the respondent nos.6 & 7 should have left the set back and as such would obstruct fresh air and sunlight to the petitioner which are necessary for leading a healthy life.

14. When the petitioner found that the authorities are not addressing the grievance of the petitioner and are colluding with the respondent nos.6 & 7, who continued to raise construction beyond the permissible limit of compounding, the petitioner had no option but to approach this Court by filing present petition on 11.11.2025.

15. The writ petition was entertained on 20.11.2025, and when this Court took cognizance in the matter, the PDA in order to save themselves passed an order for sealing the property on 24.11.2025. This Court on 20.11.2025 fixed 26.11.2025.

16. This Court on 26.11.2025 passed an order in which this Court noted that the sealing order dated 24.11.2025 has been passed as a camouflage to set up an explanation to the Court that the action has been taken against respondent no.6. This Court on such order of PDA Authority expressed its dejection over the conduct of respondent-authority and summoned the Vice Chairman of PDA fixing 28.11.2025.

17. The Vice Chairman appeared before the Court on 28.11.2025 on which date, a compliance affidavit has also been filed by the PDA wherein he admitted the fact that construction has been raised by respondent nos.6 & 7 was not as per the approved plan of the PDA and beyond the compounding limit. Alongwith the said affidavit, the Vice Chairman also filed a notice asking the respondent nos.6 & 7 to abide by the undertaking given by respondent no.6 before the Zonal Officer which has been extracted above.

18. When the matter was taken up on 28.11.2025, Sri Udai Chandani, learned counsel for respondent nos.6 & 7 gave an undertaking before the Court that he has no objection in the demolition of any deviation from the sanctioned map which is not compoundable. He also gave an undertaking that no commercial construction shall be raised in the building nor any

commercial activity shall be undertaken in the building.

19. In the said order, Sri M.C. Chaturvedi, learned Senior Counsel has also given an undertaking that any deviation from sanctioned map which is not compoundable shall be demolished. Paragraph nos.3 & 4 of the order dated 28.11.2025 are reproduced below:-

"3. Sri M.C. Chaturvedi, learned Senior Counsel assisted by Sri Vibhu Rai and Sri Abhinava Krishna Srivastava, learned counsels for the respondents states that any deviation from the sanctioned map which is not compoundable shall be demolished.

4. Sri Udai Chandani, learned counsel for respondent nos.6 & 7 states that he has no objection in the demolition of any deviation from the sanctioned map which is not compoundable. He further states that neither commercial construction shall be raised in the building nor any commercial activity shall be undertaken in the building."

20. This Court in view of the aforesaid undertaking given by Vice Chairman and learned counsel for respondent nos.6 & 7 fixed 12.12.2025 for filing compliance affidavit.

21. On 12.12.2025, learned counsel for the PDA informed the Court that a notice was given to the respondent nos.6 & 7 on 02.12.2025 asking them to get the compounding of the map, and in case respondent nos.6 & 7 do not get the map compounded, the non-compoundable area shall be demolished. It has also been informed that since respondent nos.6 & 7, who are party in the petition and gave an undertaking which was noted by this Court in its order dated 28.11.2025 for demolition of the area beyond compoundable limit, refused to accept the notice, therefore, the notice was pasted on the building of respondent nos.6 & 7 and geostatic photographs of the notice pasted on the house of respondent no.6 have also been produced before this Court.

22. When the respondent nos.6 & 7 did not respond to the aforesaid notice dated 02.12.2025, the Zonal Officer passed an order for demolition of the area which is not compoundable. As per the demolition order dated 11.11.2025, following area is in deviation from the approved map which will be demolished:-

"स्वीकृत मानचित्र के विपरीत स्थल पर निर्मित भवन में सभ तलों पर ध्वस्त किया जाने वाला भाग-

1. बेसमेंट तल

फ्रंट सेट बैक- 2.25मी०

साइड सेट बैक-। 1.25मी०

साइट सेट बैक-।। 1.25मी० दिवार लगाकर मिट्टी से भरा जायेगा।

रियर सेटबैक- 1.25मी०

2. भूतल

फ्रंट सेटबैक- 2.25 मी०

साइड सेटबैक (कार्नर की तरफ)-1.25 मी०

3. प्रथम तल, द्वितीय तल, तृतीय तल-भूतल की तरह

4. चतुर्थ तल-सम्पूर्ण निर्माण अशमनीय है, जिसे हटाना होगा।"

23. When learned counsel for respondent nos.6 & 7 was confronted with a query on 12.12.2025 as to why they did not approach the authorities for getting the map compounded and getting that area demolished which is beyond compoundable limit, learned counsel for respondent nos.6 & 7 stated that they have received demolition order and would prefer an appeal against the demolition order dated 11.12.2025.

24. The Court did not appreciate the conduct of respondent nos.6 & 7 inasmuch as the aforesaid facts namely undertaking given by respondent no.6 in the form of affidavit before the Zonal Officer, extracted above, and undertaking given by learned counsel for respondent nos.6 & 7 before this Court on 28.11.2025 establishes that respondent nos.6 & 7 continued to flout the undertaking given by them before the authorities of the PDA as well as before this Court, and in such factual backdrop, this Court passed an order directing the authorities to proceed with the demolition of that portion of the building which is not compoundable. Relevant extract of the order dated 12.12.2025 passed by this Court is reproduced herein below:-

"5. Shri M.C. Chaturvedi informs that the respondent nos. 6 and 7 refused to accept the notice and therefore notice was pasted on the wall of the building of the respondent nos. 6 and 7. When the respondent nos. 6 and 7 did not approach the respondent-authority, the respondent-authority had no option but to pass the order on 11.12.2025 for demolition of the standing structure which is beyond the compoundable limit.

6. The counsel for the respondent nos. 6 and 7 states that they have received demolition order and will prefer an appeal against the demolition order dated 11.12.2025.

7. We find that conduct of the respondent nos. 6 and 7 is not appreciable inasmuch as, once the counsel for the respondent nos. 6 and 7 had appeared before their Court and given an undertaking for getting the map compounded and demolition of that portion of building which is not compoundable, yet, the respondent nos. 6 and 7 despite their undertaking did not approach the development authority with an application for compounding the map. The respondent nos. 6 and 7 are playing foul with the Court and are evading the undertaking given before this Court. The conduct of the respondent nos. 6 and 7 is highly

depreciable and amounts to misleading the Court, as it is evident from the map that the constructions have been raised by the respondent nos. 6 and 7 not as per the sanctioned map and were beyond compoundable limit.

8. Considering the fact that respondent nos. 6 and 7 have no respect for the Court as they have failed to abide by the undertaking given before this Court and are mischievously avoiding to comply with the undertaking so given by them.

9. We find, it is a fit case where we allow the authorities to proceed with the demolition of that portion of building which is not compoundable, forthwith.

10. Put up as fresh on Monday i.e. 15.12.2025."

25. Now when the matter is taken up today, Sri M.C. Chaturvedi, learned Senior Counsel submits that PDA is in the process of demolishing the building to the extent of deviation from approved map, and to abide by his undertaking, the PDA has demolished the side wall of the constructed portion of the first floor and has also cut the roof of the third floor etc. and need some further time to demolish the set back etc.

26. The respondent nos.6 & 7 are represented by Sri Rakesh Pande, learned Senior Counsel and has opposed the demolition of the building on the grounds; firstly, the petitioner is merely a complainant and he has no *locus standi* to file the present petition inasmuch as raising of construction by respondent nos.6 & 7 by deviating from the approved map is a matter between the respondent nos.6 & 7 and PDA and no right of the petitioner is prejudiced because of raising of such construction. He contends that since petitioner is not prejudiced by such construction, therefore, he has no *locus standi* to file the present petition.

27. He further submits that petitioner is only a complainant and it is evident from the record that the authorities are proceeding on the complainant of the petitioner and as such, the grievance of the petitioner is redressed as the PDA has taken cognizance on the complainant of the petitioner, and beyond this, the petitioner has no right to pursue for demolition against the respondent no.6. In this respect, he has placed reliance upon the judgement of Apex Court in the case of **Ravi Yashwant Bhoir Vs. District Collector, Raigad and Others (2012) 4 SCC 407**.

28. He also submits that by raising construction in the set back, the petitioner is not affected as his easementary rights are not affected, therefore, in such view of the fact, no prejudiced is caused to the petitioner. His further contention is that notice dated 02.12.2025 issued by the PDA has not been received by the respondent nos. 6 & 7, and further the undertaking given by the respondent nos. 6 & 7 is subject to right of respondent nos. 6 & 7 to challenge the demolition order.

29. His further contention is that the respondent nos. 6 & 7 may be given

some time so that they may raise pillar to support the building, and thereafter, the set back may be demolished as the pillar on which the set back has been constructed if demolished today, will lead to the demolition of the entire building which could not be intention of the Court.

30. Since, Sri M.C. Chaturvedi, learned Senior Counsel has not raised any legal argument and has sought indulgence of the Court seeking two days time to complete the entire demolition process as the demolition process can only be done manually and cannot be done by JCB machine as the demolition of the building by JCB machine may affect the other standing building in the surrounding of the building of respondent nos.6 & 7, therefore, we are not inclined to deal with any other argument of Sri M.C. Charuvedi, learned Senior Counsel appearing for PDA.

31. Now, we proceed to deal with the argument of Sri Rakesh Pande, learned Senior Counsel for respondent nos. 6 & 7.

32. So far the contention of Sri Rakesh Pande with regard to the locus of the petitioner is concerned, we find from the record that the petitioner has *locus standi* to file the present writ petition inasmuch as raising of illegal construction not only affects the easementary rights of the petitioner namely, fresh air and sunlight, but also causes concern to the building of the petitioner as respondent no.6 in the application dated 20.05.2025 to the authorities for de-sealing the property, which has been extracted above, admits the fact that because of the water logging in the basement of the building, the house of the petitioner could also suffer damage which admission is evident from the underlined portion of the application of respondent no.6 dated 20.05.2025.

33. So far as the judgement relied upon by the learned Senior Counsel for the respondent nos. 6 & 7 in the case of **Ravi Yashwant Bhoir** (*supra*) is concerned, the said judgement is not applicable in the facts of the present case inasmuch as in the said case, the Apex Court was dealing with a case where a complaint was registered against the President of the Municipal Corporation, and the Members of the Municipal Corporation were not calling the Council meeting to discuss the charge against the President on the complaint. The High Court allowed the writ petition of the complainant. Feeling aggrieved by the judgement of the High Court, the Chairman preferred Special Leave Petition against the judgement of the High Court, and in such factual backdrop, the Apex Court held that since none of the right of the complainant was prejudiced by non-calling a meeting of the Members of the Municipal Corporation, therefore, he had no *locus standi* to file the petition, whereas in the instant case, as we have held above, the rights of the petitioner are prejudiced by illegal construction of the building by respondent nos.6 & 7 as such illegal construction has created a situation where it could damage the house of the petitioner which fact is admitted by the respondent no.6 in her application dated 20.05.2025. Therefore, we find that the petitioner has *locus standi* to prefer the writ petition. Consequently, we reject the contention advanced by Sri Rakesh Pande, learned Senior Counsel regarding *locus standi* of the petitioner to file the present writ

petition.

34. For the reasons given above, we also reject the further contention of learned counsel for the respondent nos. 6 & 7 that since the petitioner's complaint is being taken care of by the respondent-authority, therefore, the petitioner has no further locus, and raising of illegal construction is a matter between the PDA and respondent nos.6 & 7 and the petitioner has nothing to do with it, is also misconceived.

35. So far as the contention of Sri Rakesh Pandey, learned Senior Counsel for respondent nos. 6 & 7 that some further time may be given to the respondent nos.6 & 7 to enable them to raise an alternative construction of pillar so that the pillar on which the set back has been constructed may be demolished and the building standing on the site may be protected is concerned, we are not inclined to accept the aforesaid prayer for the reason that the conduct of respondent nos.6 & 7 has not been fair and they have consistently tried to mislead the Court and have evaded the undertaking given by respondent no.6 before the Zonal Officer by means of an affidavit stating therein that the construction beyond compoundable limit would be demolished on her own expenses, and the undertaking given by the learned counsel for the respondent nos.6 & 7, noted by this Court in its order dated 28.11.2025, wherein the learned counsel for the respondents has stated that he has no objection if the demolition is carried out with respect to construction beyond permissible limit.

36. Sri Rakesh Pande, learned Senior Counsel has further argued that PDA has not given any notice to the respondent nos.6 & 7 asking them for compounding of the map and in such view of the fact, one indulgence may be granted to the respondent nos.6 & 7.

37. This Court finds no substance in the aforesaid argument for the reason that once the respondent no.6 has filed an affidavit before the Zonal Officer, which has been extracted above, stating therein that she undertakes to demolish the deviation of any illegal construction beyond the permissible compounding limit, it is not open for the respondent nos.6 & 7 now to take a plea that the PDA has never issued any notice to the respondent nos.6 & 7 asking them to get the map compounded.

38. The fact that the respondent nos.6 & 7 knew that the construction raised by them is not as per the approved plan and there has been deviation in the construction from the approved plan and knowing this fact that the respondent no.6 gave an undertaking by filing an affidavit that she would demolish the construction which is in deviation from the approved map, she cannot expect the authorities to approach her asking for compounding of the map.

39. It is also pertinent to note that respondent nos.6 & 7 premises was sealed by sealing order dated 03.05.2025 and the reason for sealing was that the construction has not been raised as per the approved plan since there has been deviation from the approved plan and the respondent no.6 had given an

undertaking for demolition of deviation, therefore, taking this plea at this stage that authorities have not given any notice to respondent nos.6 & 7 for compounding of map is nothing but an abuse of the legal process by litigant so as to avoid any strict action by this Court.

40. The aforesaid conduct of respondent nos.6 & 7 is reprehensible and does not call for any mercy by this Court to the respondent nos.6 & 7.

41. The Courts are meant for the fair and law abiding citizens, but not for the unscrupulous persons, who have no faith in law and who violate the law with impunity.

42. It is one such case where respondent nos.6 & 7 continued to violate the law with impunity inasmuch as knowing well that there has been deviation from the approved plan in the construction raised by them, they gave an undertaking for removal of such construction, but instead of complying with the undertaking, they tried to evade the undertaking by taking those legal pleas which are not available to them at this stage.

43. The adamant approach of respondent nos.6 & 7 in not complying with the undertaking is also evident from the fact that after giving undertaking before this Court on 28.11.2025, they did not approach the authorities for getting the map compounded and when the authorities approached them by issuing a notice dated 02.12.2025 calling upon them for getting the map compounded, they refused to take notice, and in such circumstances, the authorities pasted the notice on the building of respondent nos.6 & 7 which is also evident from the geostatic photographs placed before this Court, and today respondent nos.6 & 7 took a plea that the notice dated 02.12.2025 was not served upon them.

44. Once learned counsel for respondent nos.6 & 7 had given an undertaking before this Court on 28.11.2025 agreeing to get the area which is not compoundable demolished, a duty is cast upon them to show their bonafides by approaching the authorities to get the map compounded and demolish the construction beyond compoundable limit.

45. We may at the same time also note that in the instant case, the officers of the PDA are in hands and gloves with the respondent nos.6 & 7 and because of their collusion, respondent nos.6 & 7 could raise the construction illegally with impunity.

46. Since, the present Vice Chairman of PDA has joined on 01.11.2025, therefore, at this stage, we are restraining from making any observation today against him, and expect that by the next date, the entire demolition proceeding in so far as the deviation from the approved plan would be completed.

47. It is made clear that if it is not done by the next date, the Court may proceed with the matter and seek an explanation from the current Vice Chairman as well as the earlier Vice Chairman of PDA, who without any authority of law desealed the premises on the affidavit of respondent nos.6 &

7.

48. Put up as fresh on **18.12.2025** on which date, Vice Chairman, PDA shall remain present before the Court.

December 15, 2025

NS/Sattyarth

(Sudhanshu Chauhan,J.) (Saral Srivastava,J.)