

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
ORIGINAL APPLICATION NO. 283 OF 2025**

**IN THE MATTER OF:**

SUDHIR PRAKASH SHUKLA .... APPLICANT  
VERSUS  
KANPUR DEVELOPMENT AUTHORITY & ORS. .... RESPONDENTS

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**THROUGH**

**DATE: 24.12.2025**

**PLACE: NEW DELHI**



**STHAVI ASTHANA**  
**ADVOCATE FOR RESPONDENT NO. 1**  
**C-9, SECTOR 50, NOIDA, U.P.- 201303**  
**(M): 9711116034**  
**(E): [STHAVIASTHANA@GMAIL.COM](mailto:STHAVIASTHANA@GMAIL.COM)**

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
ORIGINAL APPLICATION NO. 283 OF 2025

IN THE MATTER OF:

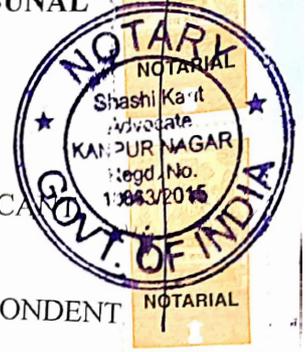
SUDHIR PRAKASH SHUKLA

VERSUS

KANPUR DEVELOPMENT AUTHORITY & ORS.

.... APPLICANT

.... RESPONDENT



REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 1,  
KANPUR DEVELOPMENT AUTHORITY

I, Brijendra Upadhyay, aged about 42 years, S/ O Krishna Dev Upadhyay, presently posted as OSD Enforcement Zone 3, Kanpur Development Authority do hereby solemnly affirm and state on oath as under:

1. That I am fully conversant with the facts of the case and in the abovementioned official capacity I am competent and authorized to swear the present Affidavit.
2. That the averments made in the captioned Original Application may be treated as denied unless specifically admitted herein. The said averments made be treated as denied if even if they are not specifically traversed in the present Affidavit. Nothing in the present Original Application or the documents annexed therewith may be treated as admitted unless specifically done so in the present Affidavit.



SBT  
24/12/25

3. That the issue in the present case relates to land bearing Plot no. 152 located in block W-1, Juhi Kalan, Saket Nagar, Kanpur City, Uttar Pradesh, measuring 3719 sq.m. and plot no. 84/63 situated in welfare society, Tezab Mill Campus, Kanpur, U.P.

4. That the Respondent No. 1, Kanpur Development Authority, has been constituted under Section 4 of the U.P. Urban Planning and

श्री बृजेंद्र उपाध्याय  
विशेष कार्याधिकारी

Development Act, 1973 as a Development Authority for the purposes of town planning and urban development in the city of Kanpur. It has an objective of promoting and securing the development of the development area according to plan.

5. That while demarcating the community centre and park situated on plot number 152 located in block W-1, Juhi Kalan, Saket Nagar, Kanpur City having area 3719 sq.m., the Executive Engineer in charge, Zone-3 of Kanpur Development Authority informed that the area of the community centre situated on the plot in question is currently 735.70 sq.m. i.e. additional construction (permanent/temporary) has been done on 369.88 sq.m. without permission.
6. That the Chief Town Planner informed that plot number 152 is shown as a park/community centre in the layout available with KDA. The area of the community centre plot is 365.82 square meters, with parks visible to the north, south, and east. The community centre's map on the said plot was approved on 21.11.2008 for a ground floor + first floor + second floor (G+2). However, in deviating from the approved map, an additional third floor (G+3) was discovered on the spot.
7. That the Officer on Special duty, Sale Zone-3 has informed that the lease deed of the plot in question, No. 152, Block W-1, Scheme No. 2, Juhi Kala, Kanpur Nagar, with an area of 365.82 sq.m., was executed on 26.12.2005 in favour of Dr. Brij Kishori Dubey Memorial Committee through Secretary Akhilesh Dubey, son of R.K. Dubey, resident of 127/U/428, Nirala Nagar, Kanpur Nagar.

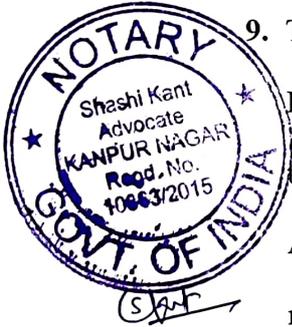


— (बृजेश्वर उपाध्याय)  
विशेष कार्यधिकारी  
कांवि०प्रा०, कानपुर

This lease deed was allotted for 90 years as a building of community centre.

8. That on the basis of the complaint, a First Information Report was filed by the concerned junior engineer of the Respondent No. 1 on 25.06.2025 against the unauthorized construction done on the plot number-152, Block W-1, Scheme-II, Juhi Kala, Kanpur Nagar, mentioning, "On the basis of the complaint, a site inspection was done under the direction of higher officials. Construction has been done on approximately 500 sq.m. by deviating from the previously prepared and approved map at the site. Action is proposed under Section 27 of the Uttar Pradesh Town Planning and Development Act 1973 as amended in 1997."

A true copy of the FIR is annexed hereto and marked as **Annexure No. 1.**



9. That a show cause notice under section 27 of the Uttar Pradesh Town Planning and Development Act 1973 as amended in 1997 was sent through letter dated 04.07.2025, in which the defendant Shri Akhilesh Dubey and others were given an opportunity to submit their reply by fixing the date of 18.07.2025 for hearing. However, the defendant/his representative neither appeared nor filed any reply to the said show cause notice. A true copy of the Show Cause notice dated 04.07.2025 is annexed hereto and marked as **Annexure No. 2.**

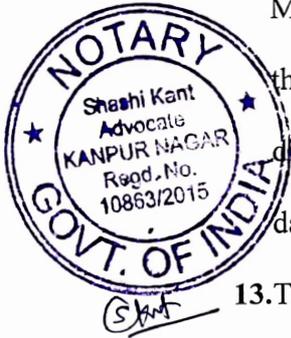
10. That to provide another opportunity to the defendant, a hearing notice was again sent through letter dated 22.07.2025, in which the defendant- Shri Akhilesh Dubey and others were given an opportunity to submit their reply by fixing the date of hearing on 05.08.2025. However, the defendant/his representative neither

— (बुजेन्द्र उपाध्याय)  
विशेष कार्यधिकारी  
कांविप्रान, कानपुर

appeared nor filed any reply to the said notice. A true copy of the notice dated 22.07.2025 is annexed hereto and marked as **Annexure No. 3.**

11. That as the defendant did not submit any reply/records, a demolition notice was issued under relevant section 27 (1) of the Uttar Pradesh Town Planning and Development Act, 1973 as amended in 1997 vide office letter dated 08.08.2025. Through the said notice, the respondent was directed to remove the unauthorized construction and development work within 15 days from the date of receipt of the order. A true copy of the notice dated 08.08.2025 is annexed hereto and marked as **Annexure No. 4.**

12. That in pursuance of the said order, the respondent filed a writ petition being WRIT-C No. 29112/2025 Dr. Brij Kishori Dubey Memorial Committee and others vs. State of U.P. and others before the Hon'ble High Court of Judicature at Allahabad which was disposed of vide order dated 26.08.2025. A true copy of the order dated 26.08.2026 is annexed hereto and marked as **Annexure No. 5.**



13. That the Respondent No. 7 had preferred an appeal before the Commissioner, Kanpur Region, Kanpur against the order dated 08.08.2025. The said appeal is currently pending. A true copy of the memo of the appeal is annexed hereto and marked as **Annexure No. 6.**

14. That with regard to plot no. 84/63 situated in welfare society, Tezab Mill Campus, Kanpur, U.P., the Respondent No. 1 has already initiated proceedings under S. 27(1) of the Uttar Pradesh Town Planning and Development Act, 1973 which are under process.

Sf.  
(बृजेन्द्र उपाध्याय)  
विशेष कार्यकारी  
कां.वि.भा.०, कानपुर

15. That the answering Respondent has initiated action as per law with regard to the encroachments found on the land and the same is in process.

16. That the above response of Respondent No. 1 is submitted before this Hon'ble Tribunal for its perusal and necessary consideration.

SK

**DEPONENT**

(शशि कान्त उपाध्याय)  
श्री श्री न्यायिक  
कार्यालय, कानपुर

**VERIFICATION**

Verified at Kanpur on this 24 day of December 2025 that the contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed therefrom.

SK

**DEPONENT**

(शशि कान्त उपाध्याय)  
श्री श्री न्यायिक  
कार्यालय, कानपुर



SK  
24/12/25

Sworn before me on.....  
by B. N. Prakash  
to whom the contents of this affidavit  
has been read & explained and  
is identified by Shri.....

SK Shashi Kant Advocate  
Govt. Notary Kanpur No. 24/12/25



# कानपुर विकास प्राधिकरण, कानपुर

(जोन-3)

प्रथम सूचना रिपोर्ट

सेवा में,

सचिव महोदय प्रवर्तन (जोन-3)

कानपुर विकास प्राधिकरण, कानपुर

1-निर्माण करने की सम्भावित तिथि:- शिकायत के आधार पर

2-निर्माण देखे जाने की तिथि .....

3-निर्माण करने की जगह

प्लॉट संख्या:- 152

ब्लॉक/सेक्टर नं०:- डब्लू-1

स्कीम संख्या:-

मकान नं०

मुहल्ला:- साकेत नगर

खुली भूमि सं०

गाँव:- कानपुर नगर।

कानपुर (नगर)

4-अनाधिकृत निर्माण का ब्योरा :-शिकायत के आधार पर उच्चाधिकारियों के निर्देशन में स्थल निरीक्षण किया गया। स्थल पर पूर्व निर्मित एवं अध्यासित स्वीकृत मानचित्र से विचलन कर लगभग 500 वर्ग मी० पर निर्माण किया गया है। उ०प्रा० नगर योजना एवं विकास अधिनियम 1973 यथा संशोधित 1997 की धारा 27 के अन्तर्गत कार्यवाही प्रस्तावित है।

5-निर्माण करने वाले का नाम व पता:- श्री अखिलेश दुबे व अन्य

प्लॉट संख्या-152, ब्लॉक डब्लू-1,

साकेत नगर, कानपुर नगर।

6-प्रस्तावित कार्यवाही :- अनाधिकृत निर्माण को गिराने के खिलाफ कारण बताओ नोटिस भेजा जाय/अनाधिकृत निर्माण करने का चालान भेजा जाये।

रिपोर्ट करने वाले के हस्ताक्षर/पद नाम

7-रिपोर्ट करने की सिफारिश :- कारण बताओ नोटिस भेजा गया है। चालान किया जाये।

नोट:- यदि धारा 27 के प्रतिबन्ध के अनुसार कारण बताने का नोटिस जारी करना है तो नोटिस भी साथ में नत्थी किया जाय और यह भी आदेश प्राप्त किया जाय कि यदि नोटिस लेने से इंकार या हीलाहवाली हो तो मौके पर चस्पा किया जाय।

रिपोर्ट करने वाले के हस्ताक्षर/पद नाम  
अधिकारी का आदेश :-कारण बताने का नोटिस भेजिये।चालान किया जाये।

नोट :-उपाध्यक्ष, कानपुर विकास प्राधिकरण के आदेश .....

दिनांक ..... द्वारा अधिकारी व कर्तव्य मुझको

प्रतिनिधानित

(डेलीगेट) कर दिये हैं।

.....(जोन)

कानपुर विकास प्राधिकरण, कानपुर।

कानपुर विकास प्राधिकरण

के. डी. ए. कंपाउंड, मोतीझीला, कानपुर, उत्तर प्रदेश।

प्रपत्र-(क)

(कृपया विनमय 8 देखिये)

कारण बताओ नोटिस

क्र. : 04/07/2025

दिनांक: 04/07/2025

वाद संख्या: KDA/Z3/ANI/2025/0003997

प्रेषण संख्या:KDA/DSP/0009249

उत्तर प्रदेश नगर योजना और विकास अधिनियम 1973 की धारा 27 की उपधारा (1) के अधीन नोटिस

कानपुर विकास प्राधिकरण

बनाम

श्री अखिलेश दुबे व अन्य

Date 04/7/25

1/730/050 (कन-3)/KDA/25-26

भूखंड संख्या :	प्लॉट संख्या-152, ब्लाक डब्ल्यू-1, साकेत नगरप्लॉट संख्या-152, ब्लाक डब्ल्यू-1, साकेत नगर, कानपुर नगर।, प्लॉट संख्या-152, ब्लाक डब्ल्यू-1, साकेत नगर, कानपुर नगर।, साकेत नगर	मोबाइल नंबर :
जोन :	ZONE 3	ईमेल आईडी:

अनाधिकृत निर्माण का विवरण:-

अनाधिकृत निर्माण का विवरण	शिकायत के आधार पर उच्चाधिकारियों के निर्देशन में स्थल निरीक्षण किया गया। स्थल पर पूर्व निर्मित एवं अध्यासित स्वीकृत मानचित्र से विचलन कर लगभग 500 वर्ग मी० पर निर्माण किया गया है।
अनाधिकृत निर्माण स्थल का पता	प्लॉट संख्या-152, ब्लाक डब्ल्यू-1, साकेत नगर, कानपुर नगर।
अनाधिकृत निर्माण कार्य प्रारंभ होने की अपेक्षित तिथि	25/06/2025
दिनांक जब अनाधिकृत निर्माण कार्य पाया गया	25/06/2025
चौहद्दी	
पूरब	NA
पश्चिम	NA
उत्तर	NA
दक्षिण	NA
पट्टेदार / निर्माण / निर्माणकर्ता का नाम	श्री अखिलेश दुबे व अन्य
पट्टेदार / निर्माण / निर्माणकर्ता का पता	प्लॉट संख्या-152, ब्लाक डब्ल्यू-1, साकेत नगर, कानपुर नगर।
प्रस्तावित कार्यवाही	धारा 27
प्रतिवेदन करने वाले का पदनाम	श्री अर्पण सिंह
प्रतिवेदन करने वाले की सिफारिश	JE

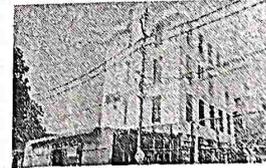
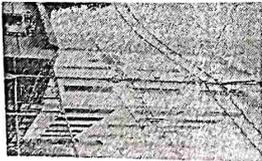
उत्तर प्रदेश नगर योजना और विकास अधिनियम 1973 की धारा-14 एवं धारा-15 के आदेशानुसार विकास प्राधिकरण की अनुज्ञा प्राप्त किए बिना उक्त निर्माण किया गया है।

अतएव आपसे यह अपेक्षा की जाती है कि सक्षम प्राधिकारी विकास प्राधिकरण कानपुर कार्यालय में दिनांक 18/07/2025 को सुबह 10 बजे यह बताएं कि पूर्वाक्त निर्माण कानसद्रूक्षण को गिरा देने का आदेश क्यों न दिया जाए।

आप स्वयं अथवा अपने यथाविधि प्राधिकृत अधिकर्ता द्वारा उपस्थिति हो सकते हैं और लिखित बयान भी दे सकते हैं।

प्रवर्तन ऐप से प्राप्त विवरण:-

1. भूखण्ड का अनुमानित क्षेत्रफल (वर्ग मीटर)	500
2. जोन	ZONE 3
3. क्या अवैध प्लॉटिंग हुई है?	नहीं
4. क्या मानचित्र की स्वीकृति है ?	नहीं
4.1 क्या ग्रीन बेल्ट में निर्माण किया जा रहा है ?	नहीं
4.2 किस प्रयोजन हेतु निर्माण किया जा रहा है ?	आवासीय



टिप्पणी : आपका ध्यान उक्त अधिनियम की धारा 26 (1) की ओर भी दिलाया जाता है जिसके अधीन आप उक्त अधिनियम की धारा 14 के तहत विकास प्राधिकरण की अनुज्ञा के बिना निर्माण कार्य करने के लिए अर्ध दण्ड के भागी हो सकते हैं। जो 50,000/- रूप० (रुपया 50 हजार) तक हो सकता है और जारी रहने वाले अपराध की दशा में, अतिरिक्त जुर्माना जो उस प्रत्येक दिन के लिए, जिसके दौरान ऐसा अपराध उसके अपराध के प्रथम बार कारित किए जाने हेतु के लिए दोष सिद्ध ठहराया जाने के बाद, जारी हो रूप० 2,500/- तक हो सकेगा, दंडनीय होगा।

Shri Abhay Kumar Pandey  
संयोजक प्राधिकारी  
कानपुर विकास प्राधिकरण

भारतीय डाक  
EUS731475334 IN:69856731147  
SP NOTIONEL 50 KANPUR KANPUR  
Counter No: 04/07/2025.12:4  
To: ANKUR 506 PLAT 152 BLK  
India Post  
PIN: 200014, Juhā Colony 50  
From: ANKUR 506 PLAT 152 BLK  
41:20:05  
Amt: 17.70, Tax: 2.70, Amt. Pairs: 18.00 (Cash)  
(Track on www.indiapost.gov.in)  
(Dial 18002665333) Near Mark - Stay safe

75



श्रीमान्,

~~श्रीमान् श्रीमान् श्रीमान् श्रीमान् श्रीमान्~~

~~फ्लोरिडा स्टेट्स यूनिवर्सिटी ऑफ इन्फोर्मेशन टेक्नोलॉजी~~

~~152, 201195-1011, 208014~~

५७७,

अतुल राय

प्रभाती प्र० अधिकारी (प्रवर्तन-३)

KDA-208002

(२४)

## कार्यालय

## कानपुर विकास प्राधिकरण

पत्रांक :- D/895 (Enf 3)/KDA/25-26 दिनांक :- 22/7/25

श्री अखिलेश दुबे व अन्य

प्लॉट संख्या-152, ब्लॉक-डब्लू-1, साकेत नगर, कानपुर नगर।

कृपया प्लॉट संख्या-152, ब्लॉक-डब्लू-1, साकेत नगर, कानपुर नगर में किये गये किये जा रहे अनाधिकृत निर्माण के विरुद्ध कारण बताने का नोटिस संख्या-KDA/DSP/0009249 दिनांक 04-07-2025 को भेजा गया था। जिसमें सुनवाई की तिथि दिनांक 18-07-2025 निर्धारित थी। उक्त नियत तिथि को आप उपस्थित नहीं हुये और न ही आपका कोई प्रतिनिधि उपस्थित हुआ तथा आप द्वारा उपरोक्त परिसर का कोई भी अभिलेख/स्वीकृत मानचित्र प्रस्तुत नहीं किया गया।

एतद् द्वारा आपको सुनवाई का एक और अन्तिम अवसर प्रदान करते हुए सुनवाई की निर्धारित तिथि 05-08-2025 को आप प्रातः 10:00 बजे सुनवाई हेतु उपस्थित होंगे। अन्यथा उक्त निर्धारित तिथि को यदि आप/आपके प्रतिनिधि उपस्थित नहीं होते है तो एक पक्षीय निर्णय कर प्रवर्तन सम्बन्धी नियमानुसार कार्यवाही कर दी जायेगी। जिसका समस्त उत्तरदायित्व आपका होगा। मौके पर अनाधिकृत निर्माण कार्य पूर्णतया बन्द रखें।  
संलग्नक :- पोर्टल द्वारा निर्गत नोटिस।

  
सक्षम प्राधिकारी

कानपुर विकास प्राधिकरण

सं. प्र. सं.

## Kanpur Development Authority

Case Id : KDA/Z3/ANI/2025/0003997

Next Hearing Date : 05/08/2025

कृपया प्लॉट संख्या-152, ब्लॉक-डब्ल्यू-1, साकेत नगर, कानपुर नगर में किये गये किये जा रहे अनाधिकृत निर्माण के विरुद्ध कारण बताने का नोटिस संख्या-KDA/DSP/0009249 दिनांक 04-07-2025 को भेजा गया था। जिसमें सुनवाई की तिथि दिनांक 18-07-2025 निर्धारित थी। उक्त नियत तिथि को आप उपस्थित नहीं हुये और न ही आपका कोई प्रतिनिधि उपस्थित हुआ तथा आप द्वारा उपरोक्त परिसर का कोई भी अभिलेख/स्वीकृत मानचित्र प्रस्तुत नहीं किया गया। एतद् द्वारा आपको सुनवाई का एक और अन्तिम अवसर प्रदान करते हुए सुनवाई की निर्धारित तिथि 05-08-2025 को आप प्रातः 10:00 बजे सुनवाई हेतु उपस्थित होंगे। अन्यथा उक्त निर्धारित तिथि को यदि आप/आपके प्रतिनिधि उपस्थित नहीं होते है तो एक पक्षीय निर्णय कर प्रवर्तन सम्बन्धी नियमानुसार कार्यवाही कर दी जायेगी। जिसका समस्त उत्तरदायित्व आपका होगा। मौके पर अनाधिकृत निर्माण कार्य पूर्णतया बन्द रखें।

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## कार्यालय विहित प्राधिकारी

कानपुर विकास प्राधिकरण  
के. डी. ए. कंपाउंड, मोतीझील, कानपुर, उत्तर प्रदेश।  
प्रपत्र - (क)  
(कृपया विनियम 9 देखिये)

### भवन गिराने का नोटिस

कार्यालय विहित प्राधिकारी उत्तर प्रदेश नगर योजना और विकास अधिनियम 1973 की धारा-27 की उपधारा (1) के अधीन

दिनांक : 08/08/2025

वाद संख्या : KDA/Z3/ANI/2025/0003997

प्रेषण दिनांक : 08/08/2025

प्रेषण संख्या : KDA/DSP/0009448

D/1030/Ent-3/KDA/25-26

Date-08/8/25

कानपुर विकास प्राधिकरण बनाम श्री अखिलेश दुबे व अन्य

भूखण्ड सं० प्लाट संख्या-152, ब्लाक डब्लू-1, साकेत नगरप्लाट संख्या-152, ब्लाक डब्लू-1, साकेत नगर, कानपुर नगर।, प्लाट संख्या-152, ब्लाक डब्लू-1, साकेत नगर, कानपुर नगर।, साकेत नगर

उत्तर प्रदेश नगर योजना और विकास अधिनियम 1973 की धारा-27 की उपधारा के अधीन भवन गिराने की आज्ञा

उपरोक्त स्थल पर स्थित भवन जिसमें आपने परिसर में बिना स्वीकृत मानचित्र के अनधिकृत निर्माण किया है। जिसमें आपको सुनवाई का और यह बताने का समुचित अवसर दिया गया था कि अनाधिकृत निर्माण को क्यों न गिरा दिया जाए।

क्यों कि आप ऐसी आज्ञा जारी करने के विरुद्ध कारण बताने में असफल रहे हैं। और आपने कोई पर्याप्त कारण नहीं बताया है।

अतएव आपसे अपेक्षा कि जाती है कि इस आदेश की प्राप्ति के दिनांक से 15 (पंद्रह) दिनों के भीतर अनधिकृत निर्माण एवं विकास कार्य को स्वयं हटा ले अन्यथा विकास प्राधिकरण द्वारा गिरा दिया जायेगा तथा गिराने का व्यय भार राजस्व के रूप में वसूला जायेगा।

  
Abhay Kumar Pandey  
कानपुर विकास प्राधिकरण

प्रतिलिपि - जोनल अधिकारी/अधि० अभि० को अग्रेतर कार्यवाही हेतु।

Abhay Kumar Pandey  
सक्षम प्राधिकारी  
कानपुर विकास प्राधिकरण

श्रीमानजी

कृपया नोटिस लेने जमा पत्र के इतिमिती  
आर लेने से इनकार किया गया नोटिस पर शक उत्प  
पत्रा मिया/ Suena  
14/8/25

डायनिंग कर

भारतीय डाक  
Receipt No: 208001  
EP EUG41236325IN, ITR No: 18002666868  
15-08-2025 14:18:47, Counter No: 104  
To: AKHILESH DUBEY  
KAP, KANPUR HA, 208014  
From: ATUL RAI  
KANPUR, KANPUR H, 208002  
Basic Amt: 15.00  
Wt: 20 (Actual)  
P. Mode: Cash, Prepaid: 16 (PS)  
POB: No. www.indiapost.gov.in

9/1030/ 50000 (10-3) / KDA 25-26 Penion - 88/08/2025

2097 अ

5/2



~~प्रीतिकांत झा~~

~~Pls. sent to - 152, Daria - 11~~

~~अधिकारी को, अगले - 1018~~

(15)



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अनुसूचि

पत्रिका नं. 1030 (10-3)

KDA - 2020D2

01



2025:AHC:148656-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**WRIT - C No. - 29112 of 2025**

Dr. Brij Kishori Dubey And Another

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

---

Counsel for Petitioner(s) : Gautam Baghel  
Counsel for Respondent(s) : Anand Prakash Paul, C.S.C., Yash Padia

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**Court No. - 29**

**HON'BLE MAHESH CHANDRA TRIPATHI, J.  
HON'BLE NAND PRABHA SHUKLA, J.**

1. Disposed of.

2. For order see our order of date passed in Writ-C No. 29114 of 2025  
(Nikhilesh Dubey Vs. State of U.P. and 3 Others).

**(Nand Prabha Shukla,J.) (Mahesh Chandra Tripathi,J.)**

**August 26, 2025**

Shivani



2025:AHC:148657-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**WRIT - C No. - 29114 of 2025**

Nikhilesh Dubey

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

---

Counsel for Petitioner(s) : Gautam Baghel  
Counsel for Respondent(s) : Anand Prakash Paul, C.S.C., Yash Padia

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**Court No. - 29**

**HON'BLE MAHESH CHANDRA TRIPATHI, J.  
HON'BLE NAND PRABHA SHUKLA, J.**

1. Heard Sri R.K. Ojha, learned Senior Counsel assisted by Sri Gautam Baghel, learned counsel for the petitioner, Sri Anoop Trivedi, learned Senior Counsel assisted by Sri Yash Padia, learned counsel for the Kanpur Development Authority (in short "KDA"), learned Additional Chief Standing Counsel for the State-respondents.
2. The instant writ petition preferred assailing the validity of the impugned order dated 08.08.2025 issued by the respondent No. 4 under Section 27(1) of the Uttar Pradesh Urban Planning and Development Act, 1973 (in short "Act, 1973").
3. At the outset, Sri Anoop Trivedi, learned Senior Counsel appearing for KDA raised an objection qua the maintainability of the instant writ petition on the ground of alternative efficacious remedy. He submits that the order impugned has been passed under Section 27 (1) of the Act, 1973 against which there is efficacious remedy to press appeal before the Division Commissioner under Section 27 (2) of the Act, 1973. Even thereafter the petitioner may press relief under Section 41 (3) of the Act, 1973. Once exhaustive procedure is provided under the Act, 1973, there is no reason or occasion to bypass the statutory forum.
4. Sri R.K. Ojha, learned Senior Advocate appearing for the petitioner, confronted with this situation, has confined his relief to the effect that in case

the matter is relegated by this Court to the appellate forum, in the interest of justice, the appellate authority may be directed to consider the interim relief application expeditiously, otherwise if the demolition is carried out, for all practical purposes, the writ petition would become infructuous and the petitioner shall suffer irreparable loss and injury. He submits that till disposal of the said application, the KDA may be restrained to carry out any demolition. In support of this submission, he has placed reliance upon the judgment of Hon'ble Apex Court in **Mool Chand Yadav and Another Vs. Raza Buland Sugar Company Limited, Rampur, (1982) 3 SCC 484** and Division Bench Judgment passed in **Ambar Gangwar Vs. State of U.P. in Writ-C No. 45507 of 2023** dated 25.12.2023.

5. Considering the factual situation as well as the categorical objection, once efficacious remedy is available to the petitioner, we are not inclined to interfere in the matter at this stage. However, in the interest of justice, without expressing any opinion on merits of the issue, it is provided that in case against the order impugned, the petitioner prefers an appeal along with stay application within two weeks, we hope and trust that the appellate authority shall consider and decide the stay application in accordance with law in further four weeks and shall also make an endeavour to decide the appeal expeditiously but certainly after giving ample opportunity to KDA.

6. Till the disposal of the stay application, the parties shall maintain status quo as on today qua the property in dispute. The petitioner is also restrained to carry out any further construction or development or to create third party interest over the property in dispute.

7. The writ petition stands **disposed of** accordingly.

(Nand Prabha Shukla,J.) (Mahesh Chandra Tripathi,J.)

**August 26, 2025**

Shivani



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C 2025 030000 3245

BEFORE THE COMMISSIONER, KANPUR REGION, KANPUR

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APPEAL NO. OF 2025-2026

(Under Section of the Urban Development Planning Act, 1974)

(District : Kanpur)

Dr. Brij Kishori Dubey Smarak Samiti, duly registered under the Societies Registration Act, having its Registered Office at 127/428 U Block Nirala Nagar through its Manager/ authorised Signatory Sri Akhil Dubey S/o Dr. Akhilesh Dubey, resident of 127/576 W1 Saket Nagar, Kanpur Nagar.

..... Appellant

Vs.

1. Kanpur Development Authority, Motizheel, Kanpur through its Vice Chairman.
2. Secretary, Kanpur Development Authority, Motizheel, Kanpur

..... Respondents

Mohalla : Saket Nagar

Tehsil : Kanpur Nagar,

District : Kanpur Nagar.

Appellant most respectfully begs to submit as under :-

- 1) That being aggrieved by the notice dated 08.08.2025 bearing No.D/1030/Eng-3/KDA/25-26, issued by the respondent purportedly under Section 27(1) of the Uttar Pradesh Urban Planning and Development Act, 1973, the appellant had filed a writ C-2914 of 2025, before Hon'ble High Court, Allahabad. The Hon'ble High Court vide order dated 26-08-2025 allowed the said writ petition whereby directed to the appellant to prefer an appeal alongwith stay application within two weeks. Further the Hon'ble High Court has observed that your goodself will consider of stay application after providing full opportunity of hearing to the parties and till then the parties shall maintain status-quo as on today in respect of property in question.
- 2) That in pursuance of advertisement given by the respondent in 1998 for allotment of 12 Semi constructed community center in the Kanpur Nagar, the appellant society had applied for allotment of community center situated at Plot No.152, Block W-1, Scheme-II, Juhi Kala Kanpur, admeasuring 365.82 Sq.Mtr. which has been allotted to the appellant in pursuance, therefore a registered lease deed was executed on 26-12-2005 for a terms of 90 years in respect of said community centre in Plot No.152, Block W-1, Saket Nagar, Kanpur Copy of lease deed is filed through Fehrist as Paper No.....
- 3) That thereafter the appellant society had submitted building plan for sanction of building on 7.11.2008 to the Kanpur Development Authority, which was sanctioned, on 7.10.2008 by Permit No.378/Bhawan/2008-09. For kind perusal

copy of the permit form dated 07.06.2024 is filed through Ferist as Paper No.....

- 4) That the society has carried out the constructions over said land leased out to the society and the aforesaid community hall became functional properly as per objectives of the society, as well as in consonance with the lease deed. Presently said community centre is being run under the name of "Kishori Vatika", the society runs said community hall without "any profit and loss basis" for the benefits of public at large.
- 5) That maliciously without any rhyme and reasons to the utter surprise and dismay, the appellant has received an order under section 27(1) of The Uttar Pradesh Urban Planning & Development Act,1973 on 8.8.2025 directing therein to demolish the said "community hall" within a period of 15 days. For kind perusal, copy of the impugned demolition order dated 08.08.2025 (which is being suffers from vice of malice in law as well as malice in fact filed) is filed through Fehirst as Paper No.....
- 6) That a dispute arose in District of Kanpur regarding the allotment of certain Park in favour of one Ashish Shukla wherein the Secretary of the society namely Dr. Akhilesh Dubey was also instrumental and the aforesaid dispute is engaging attention of this Hon'ble Court in Writ-C No. 23521/2022 Committee of Management Jawahar Vidya Samiti and others Vs. State of U.P. and others. Secretary of the society has filed his Vakalatnama which is annexed as Paper No..... in an execution proceeding arising out from order of District Consumer Forum and ever since then Ashish Shukla who is very politically active person started harassing the entire family of the petitioner.
- 7) That it is relevant to mentioned that in the past one month the family of the appellant has received following notices/orders from the respondent for demolishing of the building without giving any opportunity of hearing, the details of the notices sent by the respondent which clearly shown the malicious, arbitrary action of the respondent are as below :-
- i) Notice No.D/1031/ENF-3/KDA/2025-26 dated 08-08-2025, Plot No.127/576 to Akhilesh Dubey and others.
  - ii) Notice No.D/1021/ENF-3/KDA/2025-26 dated 08-08-2025, Plot No.127/577 to Smt.Shalini Dubey
  - iii) Notice No.D/1030/ENF-3/KDA/2025-26 dated 08-08-2025, Plot No.152 W-1 Block Saket Ngar, to Akhilesh Dubey and others
  - iv) Notice No.D/1016/Pradhi. Pravartan Zone-3/KDA/2025-26 dated 07-08-2025, Premises No.559 W-1, Saket Nagar, to Dr. Brij Kishori Dubey Memorial School

- v) Notice No.D/1070/Pradhi. Pravartan Zone-3/KDA/2025-26 dated 20-08-2025, Building No.591 W Block, Juhi Colony, to Nikhilesh Dubey
- vi) Notice No.D/1080/Pradhi. Pravartan Zone-3/KDA/2025-26 dated 21-08-2025, Plot No.155 W Block, Saket Nagar, to Madhu Dubey
- 8) That the authority of K.D.A. has wrongly and ambiguously mentioned the said notice that prior to issuance of said purported and alleged order, a show cause notices under section 27 (a) of the Act, had been issued. The appellant state on oath that no such notices have ever been received nor any communication prior to passing impugned order ever sent to the appellant, and the authority of the respondent has mollified intention mentioned. the same has been wrongly recorded by the authority just to mislead the court of law. The officers of the statutory body can not stoop down upto such extent.
- 9) That the order impugned dated 8.8.2025 is without jurisdiction inasmuch as, as per section under section 27(1) of The Uttar Pradesh Urban Planning & Development Act, 1973 it is Vice Chairman who can pass order; however, in the present case order has been passed by the Secretary of the Kanpur Development Authority, Kanpur.
- 10) That order impugned has been passed in blatant disregard to the principles of natural justice inasmuch as what to say of fair hearing not even notices were issued before passing order impugned.
- 11) That order impugned has been passed in most casual manner inasmuch as it fails to mention as to what part of community centre is required to be demolished rather as per order impugned entire constructed area has been demolished.
- 12) That in the light of aforesaid order impugned not only is without jurisdiction but also but also has been passed in blatant disregard to the principles of natural justice
- 13) That on the facts and circumstances it is expedient in the interest of justice that this Hon'ble Court may be pleased to stay the effect and operation of the impugned demolition order dated 8.8.2025 issued by the respondent no.2 (Annex.No. \_\_\_\_\_ Page Nos. \_\_\_\_\_) under section 27(1) of The Uttar Pradesh Urban Planning & Development Act, 1973, during pendency of the instant writ petition pending before this Hon'ble Court, otherwise the petitioners shall suffer an irreparable loss and injury.
- 14) That the map sanctioned by the respondent was misplaced and despite of best efforts same was not traceable, therefore the appellant society vide letter..... requested to the respondent No.1 to provide copy of the map against the payment of requisite fees. however till date despite of constant persuasion copy of the map is not provided. The purpose for obtaining the copy of the sanctioned plan was, that in case of any deviation from the sanctioned plan the appellant society can apply for compounding of the existing constructions.

15) That presently the State Government has promulgated Building Bye laws 2025 in which has increased the FAR, therefore if in case there is any violation, the appellant can apply for compounding. Tentatively the appellant society has obtained the opinion from Architect that presently entire existing construction of the community center can be compounded under the policy of the State Govt. thus the exiting construction is legal on three accounts -

- a) It has been raised in pursuance of the building plan
- b) Minor deviation from the sanctioned plan or covered under section 52 of Urban Planning Development Act.
- c) By exercising powers conferred under section 41(1) of the Urban Planning & Development Act, 1973 has promulgated Uttar Pradesh Construction and Development Policy 2025.

- 16) That the appellant/petitioner undertake to deposit the compounding fees as demanded by the Kanpur Development Authority.
- 17) That the Division Bench of this Hon'ble Court in the case of Career Convent Educational and Charitable Trust through Chairman and another Vs. State of U.P. and others Misc. Bench No. 24843 of 2020, has reiterated that orders of proposed demolition should be passed after giving an opportunity of hearing to the person against whom the orders are proposed to be passed.
- 18) That the appellant submit that since no prior notice in the said matter was/ever served upon the appellant, therefore there was no occasion to sent any reply to the respondent.
- 19) That the Respondent has out rightly sent the notice cum demolition order, without providing any opportunity of hearing, and directed the Appellant to demolish the existing construction of the community hall Premises/Plot No. Plot No.152, Block W-1, Saket Nagar, Kanpur admeasuring area 365.82 Sq.Mtr., purportedly treating it as illegal.

### GROUNDS

- A) Because from the bare perusal of the order under appeal it would be clear to the Hon'ble Court, that order under appeal, it is based on erroneous conclusions on mere pedantic approach, even being contrary to settled principal of law, justice, equity and fair play, which is resulting into recurring irreparable loss and injury to the appellant and miscarriage of justice. The public servant is not suppose to have exereise its power arbitrary.
- B) Because the construction over said community centre has been raised in accordance with sanctioned plan and improvement/modification made by the appellant society covered under the saving clause 52 of the act, as such to order for demolitions is unwanted and uncalled for.
- C) Because, the order impugned dated 8.8.2025 is without jurisdiction inasmuch as well as against the violation of the mandatory provisions of law, as per section under section 27(1) of The Uttar Pradesh Urban Planning & Development Act, 1973 and no opportunity of hearing or any show cause notice has been issued by the respondent.

- 12) Because order impugned has been passed in blatant disregard to the Provisions of section 27 (1) of the Act, as well as principles of natural justice.
- 13) Because order impugned has been passed in most casual manner inasmuch as it fails to mention as to what part of community centre is unauthorized and is against the sanctioned building plan, rather as per order impugned entire community centre is mentioned to be demolished. Whereas the building has been raised as per sanctioned plan and minor deviation/additions comes under the compoundable limit as per Building bye laws policy promulgated by the State Government in 2025. By exercising the powers conferred under section 42 of the Act.
- 14) Because, without prejudice to above it is settled law that after perusal of sanctioned plan by the respondent if any excess constructions is found the appellant is ready to pay compounding fee for the same.
- 15) Because, the Division Bench of this Hon'ble Court in the case of Career Convent Educational and Charitable Trust through Chairman and another Vs. State of U.P. and others Misc. Bench No. 24843 of 2020, has reiterated that orders of proposed demolition should be passed after giving an opportunity of hearing to the person against whom the orders are proposed to be passed, that authorities should wait and allow the statutory period of appeal to expire before proceeding for demolition.
- 16) Because the entire approach on the part of the respondent is wholly erroneous and is contrary to settled principle of law as such deserves to be set aside.
- 17) Because even otherwise considering all facts and circumstances in totality, the order of respondent is bad in law and facts, and deserve to be set aside.

**PRAYER**

It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to call for the record from the office of the respondent and allow the appeal and set aside the order dated 08.08.2025 by the Respondent under Section 27 of the Act or may pass such other and further order or direction which this Hon'ble Court may deem fit and proper, under the facts and circumstances of the case.

Dated: 09-09-2025

Appellant

Dr. Brij Kishor Dubey Smarak Samiti  
Through its Manager

(Akhil Dubey)  
Through Advocate

मण्डल: - कानपुर न्यायालय: - आगुत

वाद सं०: 3245/2025

कंप्यूटरीकृत वाद सं०:

C202503000003245

वादी / प्रतिवादी के नाम एवम पता:

डा० बृज विनोदी दुबे स्मारक समिति, 127/576 डब्ल्यू 1 सरोज नगर, कानपुर नगर  
बनाम  
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वाद की स्थिति:

बहस

वाद प्रकृति:

मूल वाद

दाखिल करने का दिनांक:

25-Sep-2025

अगला सुनवाई दिनांक:

10-Dec-2025

अधिनियम, धारा:

उपरोक्त मद्रास योजना और विकास अधिनियम, 1973, 27(2)

खाता संख्या:

—

किसरा संख्या:

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क्षेत्रफल:

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आर्डर शीट का विवरण

क्र सं०	पिछली सुनवाई तिथि	पिछली नियत कार्यवाही	अगली सुनवाई तिथि	अगली नियत कार्यवाही
1	—	—	10/11/2025	ग्राहता
2	10/11/2025	ग्राहता	12/11/2025	ग्राहता
3	12/11/2025	ग्राहता	13/11/2025	ग्राहता
4	13/11/2025	ग्राहता	17/11/2025	ग्राहता
5	17/11/2025	ग्राहता	19/11/2025	ग्राहता
6	19/11/2025	ग्राहता	26/11/2025	बहस
7	26/11/2025	बहस	08/12/2025	बहस
8	08/12/2025	बहस	10/12/2025	बहस

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*LP*  
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विशेष कार्याधिकारी  
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