



2025:AHC:221316-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 43640 of 2025

Farhat Jahan And Another

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Mandeep Singh, Sani Kumar
Counsel for Respondent(s)	: C.S.C., Dharmendra Singh Chauhan

Court No. - 29

HON'BLE MAHESH CHANDRA TRIPATHI, J.
HON'BLE KUNAL RAVI SINGH, J.

1. Heard Shri Shashi Nandan, learned Senior Counsel assisted by Shri Waseem Akhtar Khan, Shri Rizwan Ahmad, Shri Amir Kaleem and Shri Mandeep Singh, learned counsel for the petitioners, Shri Ashok Mehta, learned Senior Counsel assisted by Shri D.S. Chauhan, learned counsel for the respondent–Bareilly Development Authority, and Shri Devesh Vikram, learned Additional Chief Standing Counsel for the State-respondents.

2. The instant writ petition has been preferred praying *inter alia* for the following relief:

"(i) Issue an appropriate writ, order or direction in the nature of Mandamus, restraining the Respondent Authorities from carrying out any further demolition of the Petitioners' residential structures/Aiwane-e-Farhat, situated at 248 Sufi Tola old city District Bareilly without following due process of law.

(ii) Issue an appropriate writ, order or direction in the nature of Mandamus directing the Respondent Authorities to immediately maintain status quo with respect to the Petitioners' properties, and to cease all coercive or demolition activities till the final disposal of the present writ petition.

(iii) Issue an appropriate writ, order or direction in the nature of Mandamus holding and declaring that any demolition already undertaken is illegal, arbitrary and violative of Articles 14 and 21 of the Constitution, having been carried out without notice, hearing or adherence to statutory procedure.

(iv) Issue an appropriate writ, order or direction in the nature of Mandamus directing the Respondents to restore the demolished portion of the Petitioners' residential/ Hall premises or, in the alternative, award appropriate compensation, as this Hon'ble Court may deem fit in the interest of justice.

(v) Call for the records leading to the impugned demolition action, and direct initiation of enquiry against the officials responsible for undertaking demolition without due process."

3. The matter has been placed before this Court pursuant to the order dated 04.12.2025 passed by the Hon'ble Supreme Court of India in Writ Petition (Civil) No. 1207 of 2025 (*Farhat Jahan and another vs. State of Uttar Pradesh and others*). The Hon'ble Apex Court, while declining to entertain the petition filed under Article 32 of the Constitution of India, granted liberty to the petitioners to approach the jurisdictional High Court under Article 226 of the Constitution of India. The Hon'ble Supreme Court also granted liberty to the petitioners to make a mention before the concerned Bench of the High Court for urgent listing of the matter, considering the fact that demolition exercise had already begun and, according to the contents in the petition, partial demolition had already been effected. Further, considering these circumstances, the Hon'ble Supreme Court granted interim protection for a period of one week from 04.12.2025, that is, up to 10.12.2025, directing that status quo shall be maintained by the parties. The Hon'ble Supreme Court clarified that the interim protection granted by that order shall not influence the High Court in entertaining the petition on its own merits and that the High Court should consider the prayer for grant of stay on its own merits uninfluenced by that order. The order dated 04.12.2025 passed by the Hon'ble Supreme Court is reproduced below for ready reference:

"1. We are not inclined to entertain this petition filed under Article 32 of the Constitution of India.

2. The petitioner would be at liberty to approach the jurisdictional High Court under Article 226 of the Constitution of India.

3. The petitioner is also granted liberty to make a mention before the concerned Bench of the High Court for urgent listing of the matter considering the fact demolition exercise has already begun and according to the contents in the petition partial demolition has already been effected.

4. Further, considering the aforesaid fact, we grant interim protection for a period of one week from today, i.e. upto 10.12.2025, the status quo shall be maintained by the parties.

5. It is made clear that interim protection granted by this order shall not influence the High Court in entertaining the petition on its own merits and consider the prayer for grant of stay on its on merits uninfluenced by this order.

6. The writ petition and pending application(s) stand disposed of."

4. Shri Shashi Nandan, learned Senior Counsel appearing for the petitioners, has submitted that the impugned demolition action has been taken under the guise of an alleged order dated 12.10.2011, which was never served upon the petitioners. He has argued that without taking recourse to the procedure prescribed under the Uttar Pradesh Urban Planning and Development Act, 1973 (hereinafter referred to as "the Act of 1973"), the authorities have directly proceeded with demolition, and part of the structure has already been demolished. Learned Senior Counsel has further submitted that such situation compelled the petitioners to approach the Hon'ble Supreme Court, which accorded interim protection. He has emphasized that if an opportunity is afforded by the Bareilly Development Authority, the petitioners are willing to take recourse to remedies available under the Act of 1973 and the compounding rules, particularly for the reason that certain constructions are compoundable.

5. Per contra, Shri Ashok Mehta, learned Senior Counsel appearing for the Bareilly Development Authority, has vehemently opposed the petition on multiple grounds.

6. Firstly, he has submitted that the petitioners have concealed material facts from this Court. He has argued that notices were indeed issued to the petitioners, as reflected in the order dated 12.10.2011, wherein the Development Authority found that petitioner no. 2, who is the husband of petitioner no. 1, had constructed a Marriage Hall (*Barat Ghar*) without obtaining the required approval or sanctioned map. Learned Senior Counsel has pointed out that notices were duly issued under Section 27(1) of the Act of 1973, but despite being afforded several opportunities between May and October 2011, the petitioners neither appeared before the Authority nor furnished any evidence or reply. Consequently, the construction was declared unauthorized and an order for demolition was passed under Section 27 of the Act of 1973.

7. Secondly, learned Senior Counsel has drawn our attention to the fact that in the year 2018, petitioner no. 2 voluntarily moved an application before the Development Authority stating that the petitioner no.2 had purchased the property from one Tilak Raj through a registered sale deed dated 26.11.1991 and that the petitioner no.2 operates a marriage hall named "Ehwan-e-Farhat" on the said premises. In that application, petitioner no. 2 asserted that the structure was old and that no new construction had been raised, thereby implying that no sanction was required. However, learned Senior Counsel has submitted that despite this representation, no map was ever submitted for approval, nor was any application made for regularization or compounding of the unauthorized construction.

8. Learned Senior Counsel has further submitted that the order dated 12.10.2011 passed under Section 27 of the Act of 1973 is appealable under Section 27(2) of the said Act, yet the petitioners never chose to challenge the same through the statutory appellate remedy. He has emphasized that the Bareilly Development Authority is statutorily empowered under the Act of 1973 to regulate constructions and ensure that no building exists without proper sanction, especially in cases where

a commercial establishment such as a marriage hall is being operated without approval. He has argued that the petitioners could have availed the compounding procedure under the Rules framed under the Act of 1973 but failed to do so despite being afforded opportunities. Learned Senior Counsel has contended that the action of the Bareilly Development Authority is duly justified and sustainable under the facts and circumstances of the case and does not warrant any interference under the extraordinary writ jurisdiction of this Court. He has further argued that the disputed questions of fact raised by the petitioners cannot be adjudicated in writ jurisdiction and that the petitioners have ample statutory remedies available before the appellate authority and revisional authority under the Act of 1973, which they ought to pursue.

9. Having carefully considered the submissions advanced by learned counsel for the parties and having perused the material on record, we are not inclined to adjudicate the matter on merits at this stage. However, in the interest of justice and to ensure that the petitioners are afforded a fair opportunity to pursue their statutory remedies, we accord liberty to the petitioners to move appropriate applications under Sections 14 and 15 of the Act of 1973, along with a compounding application for compounding such portion of the construction as may be compoundable under the Rules framed under the Act of 1973. The petitioners shall file such applications within a period of two weeks from today before the Vice-Chairman, Bareilly Development Authority.

10. We further direct that in case such applications are moved by the petitioners within the stipulated time, the Vice-Chairman, Bareilly Development Authority, shall process the same strictly in accordance with law and dispose of the applications within a further period of six weeks from the date of filing, after affording full and fair opportunity of hearing to the petitioners. The entire exercise of consideration and disposal of the applications shall be undertaken independently and objectively by the Development Authority, without being influenced by any observation made in this order, and strictly in accordance with the building bye-laws, compounding rules, and other relevant provisions under the Act of 1973 and the Rules framed thereunder.

11. Needless to say that till the disposal of the aforesaid applications by the Bareilly Development Authority, all parties shall maintain status quo with respect to the property in question and no further demolition shall be carried out. The petitioners are also restrained from carrying out any further development, construction, or alteration on the site or undertaking any activity that is contrary to the zonal plan or master plan applicable to the area.

12. With the aforesaid observations and directions, the writ petition stands disposed of.

(Kunal Ravi Singh,J.) (Mahesh Chandra Tripathi,J.)

December 10, 2025

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