

(1995) 05 AHC CK 0051

In the Allahabad High Court

Case No : Civil Miscellaneous W. P. No. 9973 of 1995, connected with W. P. No. 5756 of 1995

Chetan Atma Govils

APPELLANT

Vs

Rent Control & Eviction Officer, Saharanpur & Ors.

RESPONDENT

Date of Decision : 08-05-1995

Acts Referred:

Constitution of India, 1950 — Article 226

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 — Section 18

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Rules, 1972 — Rule 14, 8, 9

Citation : (1995) 05 AHC CK 0051

Hon'ble Judges : M.Katju, J

Final Decision : Disposed Of

Judgement

M. Katju, J.—This Writ Petition No. 9973 of 1995 and Writ Petition No. 5756 of 1995 are being disposed of by a common judgment.

2. I have heard Shri Ravi Kiran Jain, learned counsel for petitioner Shri V. B. Singh for respondent Nos. 2 and 3, Shri V. K. Shukla for respondent No. 5 and learned standing counsel for respondent Nos. 1, 4 and 6 and I have also read the writ petition and counter affidavits in this case as well as in the connected writ petition.

3. The allegations in this petition are that there was House No. 2/1405/2, situated at Chander Nagar, Saharanpur popularly known as Lal Kothi which was allotted to the husband of the petitioner late Shri K. G. Govil, a judicial officer vide allotment order dated 1661973, a true copy of which is Annexure 1 to the petition. Late K. C. Govil with his family including his wife, 4 sons and 3 daughters continuously resided in the house in dispute and continuously paid rent to the landlord. Shri K. C. Govil died on 27101990 and after his death, his widow (the petitioner) with other heirs are continuously residing in the house in dispute. During the lifetime of Shri K. C. Govil the landlord had refused to accept

rent and hence the rent was being deposited under Section 30 of U. P. Act No. 13 of 1972 from 141989. It is alleged in para 5 of the writ petition that the petitioner was continuously living in this house in dispute and other family members were also residing with the petitioner. One son of the petitioner is a Major in the Army and is posted at Meerut about 110 kms. away from Saharanpur and normally resides with the petitioner. All the household goods of the petitioner and her sons are in the house in dispute. It is alleged in para 6 of the petition that one Yashveer Singh in collusion with respondent No. 5 moved an application for allotment of the house in dispute on the ground that the house in dispute is locked. On this application a report was called from the Rent Control Inspector who had submitted his report on 411995. It is alleged in para 8 of the petition that the petitioner was neither aware about the moving of the allotment application by Yashveer Singh nor had any notice or information about the inspection done or report submitted on 411995. It is alleged in para 9, that this report of the inspection was totally false. A true copy of the report is Annexure 2 to the writ petition. It appears that on 2711995 the respondent No. 5 Suraj Mal claiming himself to be the President of the District Bahujan Samaj Party, filed an application for allotment of the house in dispute. In para 11 it is stated that no notice or information was received by the petitioner regarding the application by the respondent No. 5. In para 12 of the petition it is alleged that respondent No. 5, Suraj Mal who is President of the District Unit of Bahujan Samaj Party had a bad intention to grab the house in dispute for opening the District Office of his party. He as well as the leaders of the Bahujan Samaj Party put pressure on the district authorities to allot the premises and put the respondent No. 5 in possession of the house in dispute. It is alleged in para 13 that on the influence of the respondent No. 5 and the leaders of the ruling party, the respondent No. 1 initiated proceedings for allotment of the house in dispute and the respondent Nos. 2 to 4 supported the respondent No. 1 in his illegal act and subsequently the respondent Nos. 2 to 4 actively helped the respondent No. 5 in throwing the petitioner and all her goods out of the house and putting the respondent No. 5 in possession over the house in dispute. In para 14 it is alleged that a false report regarding service of notice was given alleging that notice could not be served on the petitioner due to the lock on the house in dispute. In paras 16 and 17 of the writ petition it is alleged that the petitioner on 821995 heard that some proceedings were fixed in the court of respondent No. 1 regarding the allotment of the house in dispute. The petitioner with her grandson rushed to the court of the respondent No. 1 to know about the proceedings, In para 18 it is alleged that when the case was called out the petitioner went to call her grand son who was outside the court and in the meantime the respondent No. 1 noted the absence of the petitioner and without passing any order noted on the file that the house in dispute was vacant. When the petitioner orally opposed the order the case was fixed for 1421993 for her written reply. Thus on 821995 the respondent No 1 had passed the order declaring vacancy, a true copy of which is Annexure 3. The petitioner engaged counsel and filed objections against this order a true copy of which is Annexure 4. The respondent No. 1 on 1421995 instead of providing any

opportunity to the petitioner wrote on the ordersheet "Heard. Order Reserved". It is alleged in para 25 that the respondent No 1 on 1421995 did not pass any order till the rising of the court Suddenly in the night of 1421995 at about 8.30 p.m. the respondent No. 5 alongwith his political supporters and bad elements forcibly triad to take the possession of the house in dispute. In para 27 of the petition it is alleged that on 1421995 the respondent No. 5 with local goondas looted the goods of the petitioner and her sons which were kept in the house in dispute. Goods worth more than Rs. 2 lacs had boon looted by the respondent No. 5 and his men. The petitioner approached the Police Station but no first information report was lodged. It is alleged in para 23 that on 1421995 by the time the court arose an order was passed in favour of the impendent No. 5 behind the hack of the petitioner. A true copy of the order is annexed as Annexure5 to the writ petition. In para 30 of the writ petition it is alleged that the petitioner rushed many times to the respondent No. 1 to bring certified copy of the order dated 1421995 but to no avail.

4. On 1621995 one son of the petitioner who was posted at Jhansi came to Saharanpur and a revision was filed before the District Judge, Saharanpur. The District Judge after admitting the revision transferred the case to the IIIrd Additional District Judge who stayed the order dated 1421995. A true copy of the order dated 1621995 is Annexure6 to the writ petition.

5. It is alleged in para 33 of the writ petition that the District Judge had also appointed an Advocate Commissioner to submit a report regarding possession and also to serve notice on respondent No. 5. The Advocate Commissioner on 1621995 inspected the house and submitted his report to the court. A true copy of the report is Annexure7 to the writ petition. From this report it was apparent that on 1621995 the petitioner had possession of the house in dispute and all her goods and belongings ware in the house. The petitioner again on 1621995 submitted a written report to the police but the police refused to register the same. A true copy of the first information report is Annexure8 to the writ petition. In para 37 of the petition it is stated that police officers who did not actively cooperate with the respondent No. 5 is getting possession of the house in dispute were transferred, and even the Additional Senior Superintendent of Police was transferred. In para 39 it is stated that when the petitioner was residing peacefully in the house in dispute, the respondent No. 5 with the active support of the respondent Nos. 2, 3 and 4 and with the local police and bad element attacked the house in dispute. They manhandled the petitioner and threw her out of the house and took all the belongings of the petitioner and her family in the trucks and damaged the Maruti Car of the son of the petitioner. It is alleged that the local police actively cooperated with the respondent No. 5. The cryings of the petitioner was not at all heard by the police and the local administration. The petitioner was left weeping on the street and all her goods and belongings were taken in a truck by the police.

6. In para 41 it is stated that when the petitioner and her neighbours on 831995

tried to lodge a first information report, the police not only refused to do so but specifically said that earlier their officers were transferred and suspended and this time they have done all this on the instructions of the higher Government officers and they could not help the petitioner at all. In para 42 it is stated that the respondent No. 5 and his partymen had occupied the house in dispute illegally. The news of the taking illegal possession of the house in dispute on 831995 by the respondent No. 5 and his partymen was published in almost all the newspaper circulated namely, Dainik Jagran, A mar Ujala and Manav. On 1031995, the Advocates of the district court, Saharanpur observed strike and the market was also closed in protest against this highhandedness, a true copy of which publication is Annexure12 to the writ petition. In para 45 of the petition it is stated that the petitioner and her son rushed from pillar to post but to no avail. On 1031995 the son of the petitioner again tried to lodge a written report with the police but the sama was not lodged and ultimately the son of the petitioner sent the report to the police station by registered post, a true copy of which is Annexure13 to the petition. In para 46 it is stated that the act of the respondent No 5 and his supporters of throwing the goods of the petitioner and putting the same in the truck and damaging the car of the son of the petitioner can very well be seen from some of the photographs published by the newspapers, which are Annexures 14 to 19 to writ petition. In para 47 it is alleged that the petitioner came to know that the respondent No. 5 had filed a writ petition No. 5756 of 1995 and had obtained a stay order dated 731995 which is quoted in para 48 of the writ petition.

7. In para 49 of the petition it is stated that in the Writ Petition No. 5756 of 1995 false facts were stated and the correct facts including the report of the Commissioner dated 1621995 were concealed. In para 50 it is stated that in Writ Petition No. 5756 of 1995 it was stated that Form B had been issued on 1421995. In fact the Form B was not prepared and was not issued upto 1621995 when the Additional District Judge had stayed the allotment order. In para 53 of the petition it is alleged that the house of the petitioner was forceably occupied on the active support of Bahujan Samaj Party leaders. This is apparent from the speech delivered by the Bahujan Samaj Party leader on 2031995 in Saharanpur, A true copy of the news published in the newspaper is Annexure20 to the writ petition. In para 54 of the writ petition it is stated that on 2631995 the son of the petitioner approached the Police Station for taking some personal belonging,; and some very important government papers. The police had given only 8 items out of the entire goods of the petitioner in possession of the police. In para 56 of the writ petition it is alleged that on 1421995 the petitioner had suffered a loss of Rs. 2 lacs while in the attack on 831995 property worth about Rs. 5 lacs have been damaged and looted. The petitioner and her family are also suffering continuous mental torture. She is receiving continuous threats by the local goondas.

8. A counter affidavit has been filed on behalf of respondent No. 5 in which the allegations in the petition have been denied. It is alleged in para 3 of the counter

affidavit that after the death of Shri K. C. Govil on 27101990 his widow Chetan Anand had removed all effects from the house and shifted to Meerut and was living with her son Major Mukesh Chandra Govil and thus there was a factual vacancy in addition to a deemed vacancy under the U. P. Act No. 13 of 1972. It is alleged in para 4 of the counter affidavit that after death of the late K. C. Govil at no point of time any rent was paid by the family members of Shri K. C. Govil and it was only when the vacancy was declared and house in question was allotted to respondent No. 5 Suraj Mal that rent was sought to be deposited in court on 821995. In para 5 of the counter affidavit it is stated that it is incorrect to say that all the household goods of the petitioner and her son were in the house in dispute instead the correct fact in this regard is that the house in dispute was completely vacant. In para 6 it is stated that it is incorrect to say that Yashvir Singh was in collusion with the answering respondent. The correct facts are that on the application being moved for allotment the Rent Control and Eviction Officer, Saharanpur deputed the Rent Control Inspector for submitting his report and in pursuance of the said directive the Rent Control Inspector recorded the statement of the landlord and two witnesses of the locality. In para 1 of the counter it is stated that unnecessarily unwarranted aspersions have been cast upon Suraj Mal without there being any lawful basis for the same. It is stated that the answering respondent had no intention to grab the house by any means and to the contrary the answering respondent is a peaceful and law abiding citizen and the house in question was allotted to him strictly in accordance with the procedure under U. P. Act No. 13 of 1972. In para 8 it is stated that the vacancy was declared strictly in accordance with law. The petitioner Smt. Chetan Atma Govil had removed her effects from the said premises in dispute after the death of her husband Sri K. C. Govil. In para 9 of the counter affidavit it is stated that on 1421995 fullfledged hearing took place and thereafter a valid order dated 1421995 was passed in favour of the answering respondent. It is stated that order dated 1421995 was passed in presence of her counsel and all concerned parties. It is stated that it has been mentioned incorrectly that on 1421995 the respondent No. 5 alongwith his political members and bad elements tried to take possession of the house forceably. The correct fact is that the answering respondent got peaceful possession of the house in dispute. In para 13 of the counter affidavit it is stated that the report of the Advocate Commissioner was a procured one and in fact the respondent No. 5 was in possession. In para 16 it is stated that respondent No. 5 or his partymen never indulged in any act of vandalism or rowdyism and at no point of time Smt. Chetan Atma Govil was manhandled, nor her belongings were taken away, nor her vehicle was damaged. In para 17 it is stated that the persons belonging to the Bhartiya Janta Party led by two local M. L. As. resorted to all sorts of criminal activities. It is stated that the entire things have been manipulated by the persons belonging to higher caste, who from the very beginning had no liking of the very idea of a house having been allotted in favour of a person who belong to the Dalit Community. It stated that respondent No. 5 and his partymen are being maligned by this section of people in a calculated manner by giving adverse reports in the press,

In para 19 of the counter affidavit it is stated that the petitioner was never forcefully thrown out nor her goods and belongings were looted.

9. A counter affidavit has also been filed by the Rent Control Officer, the respondent No. 1. In para 3 of the affidavit it is stated that as per report submitted by Rent Control inspector dated 411995 the disputed property was found locked and he was told by the landlord, as well as two other persons of the locality that Smt. Chetan Atma Govil or any of her family members had not been residing in the disputed house after the death of late Sri K.C. Govil. It is stated that the Rent Control Inspector had submitted his report in accordance with Rules 8(2) of Rules. In para 5 it is stated that the petitioner submitted only one receipt before the respondent No. 1 dated 821995 and the said receipt appears to have been made for the purposes of the case. In para 6 it is stated that Smt. Chetan Atma Govil was not residing in the disputed property as per evidence available on record. In para 9 it is stated that notice was issued to the petitioner for the date fixed 3111995 and the process server could not serve the notice as the premises in dispute was found locked. The deponent again ordered for effecting service on the petitioner by way of affixation under Rule 28(i)(d) of the Rules. True copies of notices are annexure 1 and 2. In para 10 it is stated that the Inspector inspected the house as per rules. In para 13 it is denied that there was any pressure from the District authorities on respondent No. 1 and it is stated that the respondent No. 1 was not pressurised by respondent No. 5. It is stated that no form C or D had been issued to put the respondent No. 5 in possession over the house in dispute. In para 16 of the affidavit it is stated that no objection or application had been filed by the petitioner on 821995. In para 17 it is stated that the petitioner was heard in person on 821995 on the point of vacancy and the vacancy was declared after hearing the parties concerned. In para 19 it is stated that the petitioner was herself present on 821995 and she never filed any written objection/reply against the vacancy. In para 20 it is stated that on 1421995 the petitioner through her counsel moved application for setting aside the order declaring vacancy and 1421995 was fixed for evidence and further proceedings on the question of allotment and this fact was in the knowledge of the petitioner. It is stated that on 1421995 Yashvir Singh, Suraj Mal and the petitioner were heard on the entire matter including the question of allotment and after hearing the parties on all matters, the order was reserved which was later on given on the application for recalling of the order dated 821995 was rejected and the house was allotted to the respondent No. 5. In para 22 it is stated that the order of allotment was passed during court hours and the same was in the knowledge of petitioner. In para 28 it is stated that Form B was issued to the respondent No. 5 on 1421995. It is stated that a revision has been filed by the petitioner against the allotment order and declaring the vacancy and the writ petition is liable to be dismissed as such.

10. A counter affidavit has been filed by the District Magistrate as well as Senior Superintendent of Police in pursuance of the order of this Court dated 451995 and 1 have perused the same. I have also perused the rejoinder affidavit.

11. As regards the plea of alternative remedy it is true that ordinarily if there is an alternative remedy, and particularly if it is being pursued this Court does not interfere in exercise of discretionary jurisdiction under Article 226 of the Constitution. However, at the same time it is also equally wellsettled that alternative remedy is not an absolute bar to a writ petition and it will depend on the facts of the case whether the discretion under Article 226 of the Constitution should be exercised or not. If the Court finds, as it finds in this case, that there is total fraud, collusion and illegality in passing the order declaring vacancy and the allotment and that this has resulted in unimaginable hardship on the petitioner, it is open to this Court to interfere under Article 226 even where the petitioner is pursuing an alternative remedy, in order to do justice.

12. A large number of cases about illegal house grabbing have come to the notice of this Court and this Court will be failing in its duty if it does not take action in the matter. These cases of illegal house grabbing have been given wide publicity in most of the leading newspapers. In a large number of cases, illegal allotment orders have been obtained from the Rent Control and Eviction Officers either by putting political or other pressure upon them or by offering some inducement it is regrettable that many Rent Control and Eviction Officers in the State have been colluding with these illegal house grabbers.

13. The facts of this case are so glaring that this Court feels compelled to interfere in this matter. It is stated in para 8 that the petitioner had no notice or information about the inspection done or report submitted by the Rent Control Inspector. In reply to this in para 9 of the counter affidavit of the Rent Control and Eviction Officer it is stated that notice was issued to the petitioner for the date 31.11.1995 but the process server could not serve it at the premises in dispute which was found locked, and hence the Rent Control and Eviction Officer ordered for effecting service by affixation as per the rules. In my opinion the assertions in para 9 of the counter affidavit of the Rent Control and Eviction Officer are false, and in fact, as the facts of the case disclose, the Rent Control and Eviction Officer was sitting with a predetermined mind to allot the building in dispute in favour of respondent No. 5. Hence the entire alleged legal proceeding as said to have been adopted by the Rent Control and Eviction Officer was only a drama and the whole game was to give a legal cover up to a predetermined plan entered in collusion between respondent No. 5 and respondent No. 1. Even assuming that the Rent Control and Eviction Officer found the premises in dispute locked on 31.11.1995 it could not be inferred automatically from this that the building was lying vacant. A person may have gone for some purpose from his house for a short period and it does not mean he becomes liable for allotment. In para 9 of her application dated 14.2.1995 (true copy of which is Annexure 4 to the writ petition) the petitioner has alleged that being an old widow the petitioner is under medical treatment of Dr. P. K. Jain of Jhansi Medical College, and hence for a few days she had gone to Jhansi for medical treatment, and taking advantage of her absence the respondent No. 5 in collusion with others obtained a false report of the Inspector that the house is vacant. Two prescriptions of Dr. P.

K. Jain were filed with the affidavit. I see no reason to disbelieve this version of the petitioner and hence I am of the opinion that the house was not vacant, and the report of the inspector was false and procured.

14. The Rent Control Inspector is the subordinate of the Rent Control and Eviction Officer and hence it is obvious that the Rent Control and Eviction Officer had instructed him to give him a false report, in my opinion, there was no real service of notice on the petitioner and the alleged service was only fake and fraudulent. It may be mentioned that the petitioner tiled an application with an affidavit before the respondent No. 1 on 14/2/1995 for recalling of order, dated 8/2/1995. A true copy of this application is Annexure 4 to the writ petition. In para 3 of the affidavit it is stated that the petitioner stated before respondent No. 1 that no notice was given to her by the Inspector for holding the inspection and hence Rule 8(2) of U. P. Urban Building Rules has been violated. In para 4 it is stated that he and her family members are living in the said premises. In para 5 of the said affidavit it was stated that no notice was served to her in accordance with law in para 6 of the affidavit it is stated that she is an old sick woman. On 8/2/1995 when the case was called out before the respondent No. 1 she went out to call her grandson who had the papers of the case and in her absence the order declaring vacancy was passed, which is not a detailed order. When she returned and objected she was told that whatever she wanted to say she could say by an application the next date. In para 7 of the said affidavit the petitioner stated that the building in dispute is not vacant and she resided there with her family members and their goods. In my opinion there is overwhelming evidence to show that no notice was served on the petitioner as required by law and the house was not vacant but the petitioner and her family members are living in the same. I see no reason to disbelieve the version of the petitioner that the order declaring vacancy was passed in his absence as alleged in para 6 of the aforesaid affidavit. Since it is evident from a cumulative impression of all the facts of the case that respondent No. 1 was sitting with a predetermined mind to allot the house to respondent No. 5.

15. The report of the Advocate Commissioner, dated 16/2/1995 (true copy of which is Annexure 7 to the writ petition) clearly proves that till 16/2/1995 the petitioner was in possession of the disputed accommodation. I see no reason to disbelieve the report as it is by an independent person. Hence it is evident that the version of the respondent No. 5 that the premises was vacant and he took peaceful possession is false. It is evident that he took forcible possession with the help of Goondas.

16. In paragraph 13 of the counteraffidavit of respondent No. 1 it is admitted that no Form C or Form D was issued by him. This is another gross illegality in this case. Rule 14 of the U. P. Urban Building Rules requires that whenever an allotment order is passed notice in Form C must be issued to the occupant giving him at least one week's time from the service to the notice to vacate. If such person does not vacate within a week then Form D is issued to the Police to

obtain and hand over possession to the allottee. The purpose of giving at least one week's time is to enable the occupant to file a revision under Section 18 if he desires and seek a stay order. In *Santosh Kumari Anand v. R. C. E. O.*, 1994 (2) ARC 168, this Court held that an allottee has no right to take forcible possession. In *Vsha Ram v. State of U.P.*, 1989 (2) ARC 329, this Court held that the allottee has to take possession only in accordance with Rule 14, and not before the expiry of one week from the date of service of notice in Form C.

17. In the present case since no Form C or Form D was issued and instead the respondent No. 5 took possession forcibly with the help of Goondas in my opinion he has committed a gross illegality and has no right to remain in possession.

18. In view of finding that no notice was served on the petitioner and the entire proceedings were collusive and fraudulent and bristling with illegalities I quash the impugned order, dated 8/2/1995, Annexure 3 to the petition and the impugned order, dated 14/2/1995 Annexure 5 to the petition. The petitioner has already been restored possession in pursuance of my order, dated 19/2/1995 and a first information report has been registered against respondent No. 5 and his associates and criminal proceedings have been initiated against them. As regards the claim of compensation, I direct that the petitioner may make a representation for this purpose to the State Government giving full details, and if she does so within a month the said application will be disposed of within three months of the same before the Home Secretary, U. P. The compensation will not be recovered from the respondent Nos. 2, 3 and 4 but will be paid by the State Government.

19. Before parting with this case it is imperative in my opinion to mention that our ancient thinkers were of the view that the worst state of affairs possible in society is a state of lawlessness. When the rule of law collapses it is replaced by *Matsyanayaya*, which meant the law of the jungle. In Sanskrit the word "*Matsya*" means fish and *Matsyanayaya* means a state of affairs where the big fish devours the smaller one. All our ancient thinkers have condemned *Matsyanayaya* vide *History of Dharmasastra* by P. V. Kane, Vol. III, P. 21. This idea of *Matsyanayaya* (the maxim of the larger fish devouring the smaller ones or the strong despoiling the weak; is frequently dwelt upon by Kautilya, the *Mahabharata* and other works. It can be traced back to the "*Shatapatha Brahmana* XI, 1.6.24 where it is said" whenever there is drought, then the stronger seizes upon weaker, for the waters are the law," which means that when there is no rain, the reign of law comes to an end and *Matsyanayaya* begins to operate. Kautilya says "if Danda be not employed, it gives rise to the condition of *Matsyanayaya*, since in the absence of a chastiser the strong devour the weak". That in the absence of a king (*Arajaka*) or when there is no fear of punishment, the condition of *Matsyanayaya* follows is declared by several works such as to *Ramayana* II, Chapter 67, *Shantiparva* of *Mahabharat* 15.30 and 67.16, *Kamandaka* II, 40 *Matsyapurna* 225.9, *Manusollasa* II. 20.1295 etc.

20. Thus in the *Shanti Parva* of *Mahabharat*, Vol. I it is stated:

This Shloka means that when the king carrying the rod of punishment does not protect the earth then the strong persons destroy the weaker once just like in water the big fish eat the small fish. In the Shantiparva of Mahabharat Bheeshma Pitamah tells Yudhishtir that there is nothing worse in the world than lawlessness, for in a state of Matsyanyaya nobody, not even the evil doers, are safe, because even the evil doers will sooner or later be swallowed up by other evil doers.

21. In a large number of cases relating to illegal house grabbing this Court has been taking a very strong stand, because behind the sinister phenomenon of house grabbing (which has arisen in U. P. in the last six months or so) this Court could see the looming danger of Matsyanyaya if this trend was not checked. If law and order collapses civilized society would cease to exist.

22. In the various judgments with regard to illegal house grabbing which I have delivered my intention was not to humiliate or demoralise the bureaucrats or police officers, rather it was just the reverse. Unfortunately our bureaucrats and police officers had been demoralized by certain selfish politicians and my efforts was to restore their morale. A heavy responsibility lies on these officers to uphold the Constitution and the law. The bureaucracy, the police, the judiciary, etc. are stable institutions in the sense that their members have affixed tenure of service (up to the age of superannuation) unlike the politicians who are today in power and tomorrow out of it. Hence it is the solemn duty of members of these stable State institutions to uphold the majesty of the law, otherwise Matsyanyaya will begin to operate and then nobody will be safe. My aim in these judgments was therefore to remind the officers of their solemn duty. As the great emperor Akbar said "May cowards become brave men out of shams." Vide Akbar Nama of AbulFazal translated by H. Beveridge, Vol. III, P. 18. Our administrative and police officers are working under great difficulties and tremendous pressure and the intention of this Court was not to demoralise them but to make the bureaucrats and police officers true and brave protectors of the people and the rule of law, so that they may be held in respect by the citizens, I am reminded of the couplet of the great Hindi poet Abdur Rahim Khan Khana who wrote:

which means :

The poor seeks help from everyone, but no one cares for the poor. The person who cares for the poor becomes like a Deenbandhu (i. e. God).

23. My aim therefore in these judgments relating to house grabbing was not only to prevent the coming of Matsyanyaya but also to encourage the administrative and police officers to do their duty bravely and thus become a Deenbandhu. If there is a conflict between the mandate of the Constitution and the law on the one hand, and the orders of any political authority, on the other, it is the duty of the officers to uphold the Constitution and the law, and disobey the illegal order of any such political authority. Although the bureaucrats and police officers do not take an oath like the Judges of the High Court but in my opinion they take an

implied oath to uphold the law.

In the Gita Lord Krishna has said:

(Gita Ch. 3 Verse 19)

which means:

"Therefore a man should do his duty without attachment. A detached person, who does his duty, attains the Supreme."

In my opinion the bureaucrats and police officers should follow the message of the Gita and do their duty of upholding the law regardless of the consequences.

24. I make it clear that in our society there are good people and bad people in all sections of society. There are good officers and bad officers, good politicians and bad politicians, good lawyers and bad lawyers. No segment or class are wholly bad. The respondent Nos. 2 and 3 , District Magistrate, Saharanpur and Senior Superintendent of Police, Saharanpur, in my opinion, are good officers ; and they are not to blame in any way.

25. I would also like to comment on the splendid performance of the press in highlighting these cases of illegal house grabbing. In the U. S. Supreme Court's historic decision in U. S. v. New York Times," 1971 (The Pentagon 132 Papers Case), Mr. Justice Hugo Black of the U. S. Supreme Court observed "Only a free and unrestrained press can effectively expose deception in Government. And paramount among the responsibilities of a free press is the duty to prevent any part of the Government from deceiving the people and sending them off to distant lands to die of foreign fevers and foreign shot and shell, la my view far from deserving condemnation for their courageous reporting. The New York Times, the Washington Post and other newspapers should be commended for serving the purpose that the Founding Fathers saw so clearly. In revealing the workings of the Government that led to the Vietnam War, the newspapers nobly did precisely that which the founders hoped and trusted they would do."

26. In my opinion the Indian Press too deserves a similar praise. By highlighting the news about the series of cases of illegal house grabbing in the State of Uttar Pradesh, which if not checked in time would have led to wholesale destruction of law and order and civilized society, the Indian Press has rendered a signal service to the nation and to society. The Indian Press has thus nobly discharged its duty to the people of fearlessly and courageously exposing the dangerous trend towards lawlessness just as it had earlier done during the Emergency. The Indian Press thus deserves the gratitude of society.

27. In the circumstances the writ petition No. 9973 of 1995 is allowed and the writ petition No. 5756 of 1995 is dismissed as infructuous.

Decided accordingly.