

(2025) 12 AHC CK 1714

In the Allahabad High Court

Case No : Matters Under Article 227 No. - 6938 Of 2025

Parshuram And Another

APPELLANT

Vs

Sub Divisional Magistrate

RESPONDENT

Date of Decision : 02-12-2025

Acts Referred:

Employee's Compensation Act, 1923 — Section 30
Indian Penal Code, 1860 — Section 279, 304(A), 427

Citation : (2025) 12 AHC CK 1714

Hon'ble Judges : Sandeep Jain, J

Bench : Single Bench

Advocate : Amaresh Sinha, Lalit Kumar, Asim Zulfiquar

Final Decision : Allowed

Judgement

Arun Kumar Singh Deshwal, J

1. Heard Shri Vimal Kishor Singh, learned counsel for the petitioners and Shri Yogesh Kumar Awasthi, learned Standing Counsel for the State-respondent.

2. The present writ petition has been filed with the following prayer:-

"(i) to direct the opposite party no.1 to decide Case No. 7405/2022, Computerized Case No. T202208100307405 under Section 116 of the U.P. Revenue Code, 2006, 'Parshuram and others Vs. Ramdeen and others', pending before him since 11.11.2022, expeditiously within time stipulated by this Hon'ble Court."

3. Learned counsel for the petitioners has submitted that the suit under Section 116 of the U.P. Revenue Code, 2006 is pending since 2022 and till date the same has not been decided by the concerned Sub Divisional Magistrate. Though, as per Rule 109 (10) of the Rules, 2016 the Sub Divisional Magistrate, shall make endeavor to decide the said suit within a period of six months, except the reasons to be followed.

4. A request has been made that the S.D.M., Tehsil Utraula, District Balrampur be directed to decide the Case No. 7405 of 2022, under section 116 of the U.P. Revenue Code, 2006, in time bound manner.

5. This Court had occasion to consider the issue of expeditious disposal of cases under U.P. Revenue Code in the case of Daya Shankar Vs. State of U.P. and others 2023 (6) A.D.J. 181, wherein a direction was issued that in case a time has been fixed in the U.P. Revenue Code or Rules framed therein, then a concerned Presiding Officer is duty bound to decide the proceedings within the time prescribed by the Revenue Code as well as Rules framed therein. This Court further prescribed the time limit for deciding the other proceedings under Revenue Code, where no specific provision has been provided under U.P. Revenue Code or Rules framed therein regarding the time, in which the proceedings has to be concluded. Paragraphs no. 12, 13, 14, 15, 16, 17, and 18 of Daya Shankar's case have been quoted as under:-

" 12. For the proceeding mentioned above, the legislature has provided time bound disposal for some of the proceedings but despite specific time fixed by the Code, 2006 proceeding could not be decided for a number of reasons and in most of the cases due to negligence on the part of presiding officers or due to the absence of sufficient number of presiding officers as well as the continuous strike of bar in Tehsil or Collectorate. The following provisions of Code, 2006 provide a specific time for

deciding the proceedings as follows:-

(i) Dispute regarding boundaries by Sub-Divisional Officer is to be decided within three months from the date of the application as per Section 24(3) of Code, 2006 which is quoted as below:-

"24(3). Every proceeding under this section shall, as far as possible, be concluded by the Sub-Divisional Officer within three months from the date of the application."

(ii) Mutation proceedings u/s 35 of Code, 2006 is to be decided within 45 days if mutation is undisputed and within 90 days if mutation is disputed as per Rule 34(7) of Rules, 2016 which is quoted as below:-

"34(7). The Tahsildar shall make an endeavour to decide the undisputed case of mutation within the period of 45 days from the date of the registration of the case and the disputed case of mutation within the period of 90 days and if the proceeding is not concluded within such period the reason for the same shall be recorded"

(iii) Proceeding for correction of record as per Section 38 of Code, 2006 is to be decided within 45 days from the date of receiving application with the report as per Rule 36(6) of Rules, 2016 which is quoted as below:-

"36(6). An endeavour shall be made to conclude the proceeding for correction

under section 38 within the period of 45 days from the date of receiving the application with the report and if the proceeding is not concluded within such period the reasons for the same shall be recorded."

(iv) Application for cancellation of irregular allotment of abadi side u/s 66 should be decided within six months as per Rule 65(10) of Rules, 2016 which is quoted as below:-

"65(10). The Collector shall make an endeavour to conclude the inquiry within the period not exceeding six months from the date of registration of the case and if the inquiry is not concluded within the period aforesaid the reason for the same shall be recorded."

(v) Proceeding to prevent wrongful occupation and damage of Gram Sabha property u/s 67 is to be decided within the period of 90 days as required by Rule 67(6) of Rule, 2016 which is quoted as under:-

"67(6). The Assistant Collector shall make an endeavour to conclude the proceeding under section 67 of the Code within the period of ninety days from the date of issuance of the show cause notice and if the proceeding is not concluded within such period the reasons for the same shall be recorded."

(vi) Proceeding for granting permission to transfer the land of schedule caste under Section-98 should be completed within period of 15 days as per Rule 99(11) and

which is quoted as under:

"99(11). The Collector shall make an endeavour to dispose of the application under section 98(1) within the period of fifteen days from the date of receiving the report submitted by the inquiry officer and if the application is not disposed of within such period the reason for the same shall be recorded."

(vii) For division of holding under Section 116 of the Code, 2006 is to be decided within a period of six months as provided by Rule 109(10) of Rules, 2016 which is quoted as under:-

"109(10). The Sub-Divisional Officer shall make an endeavour to decide the suit within the period of six months and if the suit is not decided within such period, the reason shall be recorded."

(viii) Proceeding for cancellation of irregular allotment of agricultural land u/s 128 should be completed within a period of three months as per Rules 126(6) of Rules, 2016 which is quoted as under:-

"126(6). The Collector shall endeavour to conclude the enquiry within the period of three months from the date of issuance of notice and if the enquiry is not concluded within the period of three months, the reasons for the delay shall be recorded."

13. Apart from the above proceeding for which specific time frame was fixed by

the legislature in the Code, 2006 or in the Rules, 2016 there are other proceedings for

which no time frame has been fixed either in Code, 2006 or in Rules, 2016 therefore, the concerned presiding officer or the revenue officer should make endeavour to decide these proceedings in following manner :-

(i) Application for right of way and other easement u/s 25 should be decided within a period of one month and if the same could not be concluded then reason for the same should be recorded.

(ii) Application for removal of obstacle from public road, path or common land of village u/s 26 should endeavour to be decided within a period of one month and if the same could not be concluded then reason for the same should be recorded;

(iii) Application u/s 58 to decide the dispute regarding property mentioned in Sections 54, 56 and 57 should be decided preferably within a period of three months from the date of application and if the same could not be decided then reason for the same should be recorded;

(iv) Application u/s 65 for delivery of possession of allotted land from unauthorized person should be decided preferably within a period of three months and if the same could not be concluded then reason for the same should be recorded;

(v) Application for the execution of the final decree passed u/s 116 of Code, 2006 by demarcation of Kurra on site should be decided within a period of one month and if

the same could not be concluded then reason for the same should be recorded;

(vi) A suit for declaration as bhumidhar/asami under Section-144 of the Code, 2006 should be decided within a period of the six months and if the same could not be concluded then the reason for the same should be recorded;

(vii) Any other application referable to any provision of Code, 2006 should also be decided within the period prescribed by Code, 2006 or Rules, 2016, if no time is prescribed by Code, 2006 or by Rules, 2016 then same should be decided within a period of one month and if same is not decided within aforesaid period then reason should be recorded.

14. If the proceedings mentioned above are appealable or revisable or subject to second appeal as per the provision of Code, 2006 and if no time is prescribed by the Code, 2006 then these proceedings should also be decided within a period of six months up to the level of Commissioner and within a period of one year by the Board of Revenue, and if not decided within the said period then the reason for the same should be recorded.

15. While calculating the period mentioned above as directed by this Court for deciding different proceedings under Code, 2006, the date on which there was a

strike of Bar as well as the dates on which the person seeking benefit of this order take

adjournment should be excluded.

16. If any stay application, recall application or any other miscellaneous application is filed during above mentioned proceedings, then same should be decided within a period of one month and if same is not decided within aforesaid time, then reason should be recorded. It is made clear that during the pendency of recall application or stay application, no coercive action be taken against the applicant.

17. For the violation of direction mentioned above by any revenue officer including the Collector and Commissioner and as well as Board of Revenue, they would be liable for contempt of this Court for not following the direction in deciding the proceedings as mentioned above (including pending proceeding in corresponding provision of Uttar Pradesh Zamindari Abolition And Land Reforms Act, 1950 and as Uttar Pradesh Land Revenue Act, 1901).

18. The litigant, whose proceeding are mentioned above was not decided despite his application relying upon this judgement within the time fixed by this court, then litigant instead of filing writ petition for expeditious disposal may directly approach this Court by filing contempt proceedings against the concerned officer."

6. From the above quoted judgement, it is clear that in case Presiding Officer failed to conclude the proceedings within the time prescribed in the U.P. Revenue Code or by this Court, then he is liable to contempt for violation of the direction issued in Daya Shankar's case, if there is no reasonable explanation to not deciding the proceedings within time fixed by the Statute as well as by this Court in the above judgement. This Court also directed in the above judgment when any Revenue Authority failed to conclude the proceedings within the prescribed time framed then the parties need not to approach this Court for seeking direction for expeditious disposal of proceedings under the Revenue Code but they can file contempt petition before this Court for the violation of the directions issued in the Daya Shankar's case (supra).

7. From the perusal of the order sheet int he present case, it is clear that the proceedings of a Case No. 7405/2022 under Section 116 of the U.P. Revenue Code, 2006 has been pending for the reason that there is continuous strike on the part of advocates of Tehsil Utraula. Though some time the case was also adjourned because of the nonavailability of the concerned Presiding Officer. Therefore, it is clear that it is the strike of Bar Association of Tehsil Utraula, which is the reason for not concluding the proceedings in question. Therefore, prima facie it is the contempt committed by the Bar Association, Tehsil Utraula, not by the Presiding Officer, Tehsil Utraula.

8. In view of the above, this Court considering the fact that there is specific direction to conclude the proceedings under Section 116 of the U.P. Revenue

Code, within a period of six months and there is direction of this Court in the case of Daya Shankar (supra) to conclude such proceedings in the time bound manner, failing which amount to contempt for disobedience of general direction of this Court.

9. The present petition is disposed of with a direction to Sub Divisional Magistrate, Tehsil Utraula, District Balrampur to decide the Case No. 7405 of 2022 within a period of six months. It is made clear that if the case is adjourned due to continuous strike of Bar Association of Tehsil Utraula then the office bearers of concerned Bar Association will be liable for contempt of this Court for making interruption to the direction in Daya Shnakar's case.

10. As the issue is effecting the public at large, specifically poor litigants (farmers), this Court issued general directions for entire U.P. that in case the proceedings under Revenue Code could not be concluded within the time framed by this Court in the case of Daya Shankar (supra) because of the continuous strike of Bar Association of any Tehsil, Collectorate or Commissionerate, then the office bearers of Bar Association would be liable for contempt of this Court for violation of direction of Daya Shanjkar's case and the party would be at liberty to file contempt proceedings against the office bearers of the concerned Bar Association.

11. With the aforesaid direction, the present petition is disposed of.

12. The office is directed to send copy of this order to the Chairman of Board of Revenue, who will circulate the same to all Revenue Authorities from Tehsil to Commissionerate (Revenue) and the copies of the same shall also be pasted on the Notice Board.

13. The Senior Registrar of this Court is directed to communicate the order for compliance.