

**(2008) 08 AHC CK 0170**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 4172 of 1996

Ramesh Chandra Sharma

APPELLANT

Vs

R.C.& E.O./IInd Additional City Magistrate, Kanpur Nagar and  
another

RESPONDENT

---

**Date of Decision :** 11-08-2008

**Acts Referred:**

**Citation :** (2008) 08 AHC CK 0170

**Hon'ble Judges :** S.U.Khan, J

**Final Decision :** Allowed

---

## **Judgement**

S.U. Khan, J.—List revised. No one appears for the respondent Heard learned Counsel for the petitioner.

2. The only contesting respondent No. 2 Om Prakash is real uncle of the petitioner. Devideen was father of Om Prakash and grandfather of Ramesh Chand petitioner. Vacancy of the accommodation in dispute has been declared on the ground that petitioner was unauthorised occupant. An owner or coowner can never be unauthorised occupant. Learned Counsel for the petitioner states that some other litigation was also going on in between the petitioner and his uncle respondent No. 2 and in the said litigation compromise has been arrived at and it has been agreed that property in dispute will remain with the petitioner. That compromise has been arrived at in O.S. No. 519 of 1993. Date of filing of compromise application and date of order passed in the suit deciding the same on the basis of compromise application is not legible. Photostat copy of order written in very bad handwriting has been filed. Learned Counsel for the petitioner shall be careful in future.

3. Accordingly, in view of the above, writ petition is allowed. Impugned order declaring vacancy dated 9.1.1996 passed by R.C. & E.O./A.C.M. (2), Kanpur Nagar in Case No. 25 of 1995 is set aside. It is declared that there is no vacancy.