127. We have already clarified the scope of the inquiry/decision/order passed by the Sub Divisional Magistrate which is referred in the letter dated 16.09.2020, therefore, in view of what has already been stated hereinabove we have no hesitation to state that the notices under section 15 (9) being based wholly and entirely on the order dated 14.08.2020 and the letter dated 16.09.2020, do not satisfy the jurisdictional prerequisites referred above and these notices are liable to be quashed.

128. We accordingly quash these notices dated 18.11.2020 in Writ C No. 661 of 2021, Writ C No. 684 of 2021 and Writ C No. 687 of 2021. It shall, however, be open for the authority to proceed against the petitioners afresh in the light of the discussion made hereinabove, if there is a cause to proceed against them.

129. An objection had been raised by Shri Ratnesh Chandra, learned counsel for the Authority that these are mere notices, therefore, the petitioner should be asked to respond to the same and whatever pleas are raised by them, they would be considered by the Vice Chairman, Lucknow Development Authority. We are not persuaded by this submission for reasons which are obvious from the discussion made earlier. When the jurisdictional prerequisites are themselves not satisfied, why should we make the petitioners suffer the proceedings under section 15 (9) of the Act 1973 based on apparently illegal notices issued to them. We, therefore, reject this submission, subject to the liberty granted.

130. Writ C No. 684 of 2021, Writ C No. 661 of 2021 and Writ C No. 687 of 2021 are ***allowed in part*** in terms aforesaid. Writ C No. 7005 of 2023 is ***disposed of*** in terms of the discussion made hereinabove.

(2025) 5 ILRA 608
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: LUCKNOW 19.05.2025

BEFORE

THE HON'BLE IRSHAD ALI, J.

Writ C No. 1000151 of 2001

Mohammad Rafiq & Ors. ...Petitioners
Versus
Addl. Commissioner Admn. Gonda & Ors. ...Respondents

Counsel for the Petitioners:
H.D. Srivastava, Gyan Singh Chauhan, Pramod Kumar Singh, R.B. Singh

Counsel for the Respondents:
C.S.C., R.N. Gupta

(A) Revenue Law - Land dispute - right to fair hearing - U.P. Zamindari Abolition and Land Reforms Act, 1950 - Sections 167/168 - Vesting of land under U.P. Zamindari Abolition and Land Reforms Act, 1950 - Validity of ex-parte orders without proof of service of notice on purchasers of land alleged to be hit by fragmentation provisions - An order affecting rights cannot be passed without proof of proper service of notice - absence of finding on service renders the order illegal and ex-parte - Failure to record a finding on the service of notice vitiates the proceedings - admission through non-filing of counter affidavit strengthens petitioner's claim - An order passed without recording a finding on the proper service of notice is illegal and liable to be set aside as ex-parte. (Para - 7 to 10)

Petitioners, landless labourers, purchased land - orders under Ss. 167/168 U.P.Z.A. & L.R. Act vesting land in State were passed ex-parte without proof of notice service - no rebuttal filed by respondents - leading to an ex-parte order

that was affirmed in revision - hence petition. (Para - 3 to 4, 8 to 9)

HELD: - Both the authorities below committed a mistake in recording no finding on service of notice upon the petitioners, and in view of the unrebutted statement that no notice was received, the impugned orders dated 31.3.1997 and 4.1.2001 were illegal and ex-parte in nature, and thus liable to be set aside. Respondent No. 2 was directed to pass a fresh order, with reasons regarding the service of notice, within six months. (Para - 8 to 12)

Petition Allowed. (E-7)

(Delivered by Hon'ble Irshad Ali, J.)

1. Heard Ms. Manju Devi, learned counsel for the petitioners and learned Standing Counsel for the State-respondent.

2. By means of the present writ petition, the petitioners are challenging the order dated 31.3.1997, passed by the respondent No.2 and order dated 4.1.2001, passed by the respondent No.1.

3. Brief facts of the case are that the petitioners being landless Labourers purchased land from the recorded tenure holder after paying full consideration to him. The respondent No.4 moved an application which has been allowed by the respondent No.2 without serving notice upon the petitioners. The respondent No.2 vide ex-parte order dated 17.12.1997, rejected the claim setup by the petitioners against which a revision was filed by the petitioners, which has also been dismissed by the respondent No.2. At the time of filing of the writ petition, the petitioners were granted an interim order that in the meanwhile, the petitioners shall not be dispossessed from the property in dispute.

4. Submission of learned counsel for the petitioners is that the notice, as alleged in the impugned order, has never been served upon the petitioners. The thumb impression bearing on the notice is of another person and does not relate to the petitioners, therefore, submission of learned counsel for the petitioners is that the order is ex-parte in nature. Next submission is that in the revision, without perusing the record, the learned Additional Commissioner has affirmed the order passed by the respondent No.2. Last submission is that the Additional Commissioner has noticed the version of the petitioners that thumb impression bearing on the notice is not of the petitioners, but no finding has been returned by the Sub-Divisional Officer or by the Additional Commissioner.

5. On the other hand, learned Standing Counsel submits that the impugned order does not suffer from any infirmity or illegality and is a just and valid order.

6. I have heard the submission advanced by learned counsel for the parties and perused the material on record.

7. On perusal of the order of the Sub-Divisional Officer, it is evident that he has noticed in the order that the notice does not bear the thumb impression of the petitioners, as alleged by them, but no finding in this regard has been recorded that on what basis he came to the conclusion that the thumb impression bearing on the notice is of the petitioners. The Additional Commissioner has also affirmed the finding recorded by the respondent No.2 and came to the conclusion that the notice was served upon the petitioners.

8. In the opinion of the Court, both the courts below have committed mistake

in recording no finding in regard to service of notice upon the petitioners. In paragraph-4 of the writ petition, it is specifically stated that no notice was received by the petitioners in order to contest their claim, but the respondent No.2 without considering the material as well as the provision of law, ordered that the land purchased by the petitioners is barred by fragmentation as provided under Sections 167/168 of the U.P. Zamindari Abolition and Land Reforms Act, 1950 and has ordered that the said land be vested in favour of the State.

9. As no counter affidavit has been filed controverting the statement made in paragraph-4 of the writ petition, meaning thereby, it is admission of the respondents that prior to passing of the order, no notice was issued to the petitioners nor it was served upon them.

10. In view of the above, in the opinion of the Court there is no finding recorded in the order that how the notice was served upon the petitioners, the orders being illegal and ex-parte in nature, are liable to be set aside by this Court.

11. Accordingly, the order dated 31.3.1997, passed by the respondent No.2 and order dated 4.1.2001, passed by the respondent No.1 are quashed. The writ petition succeeds and is **allowed.**

12. The respondent No.2 is directed to pass a fresh order, recording reasons of service of notice upon the petitioners within a period of six months from the date of production of a certified copy of this order.

(2025) 5 ILRA 610
ORIGINAL JURISDICTION

CIVIL SIDE
DATED: LUCKNOW 30.05.2025

BEFORE

THE HON'BLE JASPREET SINGH, J.

Writ C No. 1000337 of 2015

Mohd. Mustkeem ...Petitioner
Versus
State of U.P. & Ors. ...Respondents

Counsel for the Petitioner:
Satish Kumar Sharma, Manjusa, Mohan Singh, Rupesh Kumar Gupta

Counsel for the Respondents:
C.S.C., Nishant Shukla

(A) Administrative Law - Fair Price Shop License - Cancellation of license and principles of natural justice - Essential Commodities Act, 1955 - Uttar Pradesh Schedule Essential Commodities Distribution Order, 2004 - Section 28(3) - Control Order, 2016 - Government Order dated 29.07.2004 - Doctrine of *audi alteram partem* - A fair price shop license is not a fundamental right under Article 19(1)(g) - Relationship between the State and a licensee is that of a principal and an agent - Inquiry for cancellation is summary in nature and requires adherence to the broad principles of natural justice, not a detailed, full-fledged inquiry akin to a departmental inquiry - State as principal may terminate agency contract subject to non-arbitrariness. (Para - 22, 28, 31, 44 to 47, 52, 53, 58)

A fair price shop licensee's license was initially cancelled by the Sub Divisional Magistrate - which was later set aside on appeal for being *ex parte* - After a remand, the license was again cancelled - subsequent appeal was dismissed - leading to the instant writ petition. **(Para - 2 to 14)**

HELD: - Adequate opportunity was granted to the petitioner, and there was no violation of the