

raised nor considered and thus cannot have any precedential value.

58. The next order cited is an interim order passed in **Special Appeal No.215 of 2024 (Executive Director Retail and Sales Indian Oil Corporation Ltd. and others vs. M/s Mishra Automobiles through Jagdish Mishra and others)** wherein this court while granting an interim order had noticed that the order passed by the Single Judge was on the basis of unamended MDG whereas the MDG stood amended and this aspect was not considered by the learned Single Judge. An interim order has no precedential value and even otherwise said interim order, has no bearing on facts of the present case.

59. The next judgment cited in the case of **Savitri Devi and others vs. Union of India and others; Writ C No.29859 of 2017**, wherein the Division Bench of this Court had dismissed the writ petition by observing that no infirmity could be found, none of the arguments as raised were either considered or decided by the Division Bench.

60. In the present case, as expressed above, the orders impugned cannot be sustained for the following reasons :

(i). the clarificatory e-mail, relied upon in the two orders was never supplied to the petitioner and was never made a relied upon document in the show cause notice although the same was available prior to the issuance of the show cause notice as claimed by the respondents;

(ii). the finding recorded by the first authority while considering the report of the OEM Dreser Wayne, as noticed in para 42 above, were without any material either alleged in the show cause notice or made available during the course of the proceedings, the said view appears to be a

personal view and is perverse in absence of any material to justify the said view.

(iii). the appellate authority while invoking the 'deeming provisions' in para 5.1.4 of the MDG has taken two diametric views in respect of similar reports submitted by the OEM and the second view taken by the appellate authority in the case of M/s Firozabad Fuels has been accepted by the Corporation and thus, two different views interpreting a similar provision are arbitrary; and

(iv). the Para 5.1.4 of the MDG, is divided into two parts, the first being there being an additional, removal, replacement of manipulation, however the same has to be read in conjunction with the likelihood of manipulating delivery in order to gain undue benefit, to substantiate the second part of clause 5.1.4, no material exists except the clarificatory e-mail which was never made a part of the show cause notice and was never proposed to be relied upon.

61. In the light of the said reasoning and the logic as recorded above, the writ petition deserves to be allowed and is allowed. The impugned orders dated 12.01.2023 and 15.05.2023 are quashed.

(2025) 4 ILRA 635
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: ALLAHABAD 08.04.2025

BEFORE

THE HON'BLE SHEKHAR B. SARAF, J.
THE HON'BLE VIPIN CHANDRA DIXIT, J.

Writ C No. 6408 of 2025

Baby Aaliya (Minor) & Anr. ...Petitioners
Versus
State of U.P. & Ors. ...Respondents

Counsel for the Petitioners:

Sri Santosh Prajapati, Sri Sayyed Kashif
Abbas Rizvi

Counsel for the Respondents:

C.S.C.

Live in relationship-Father and mother of the child are of different religion-living together since 2018- parents of the child are apprehensive of certain threats from the private respondents who are the erstwhile in-laws of the biological mother- after the death of the erstwhile husband- biological mother started living with the biological father- parents are major-are entitled to live together-even if they have not undergone marriage-the Superintendent of Police, is directed to ensure that the first information report should be registered if the parents of the child approach the police station.

W.P. allowed. (E-9)

Cases Cited:

1. Gyan Devi Vs Superintendent, Nari Niketan, Delhi & ors., (1976) 3 SCC 234

2. Lata Singh Vs St. of U.P. & anr.,(2006) 5 SCC 475;

3. Bhagwan Das Vs St. (NCT of Delhi) (2011) 6 SCC 396)

(Delivered by Hon'ble Shekhar B. Saraf, J.
&

Hon'ble Vipin Chandra Dixit, J.)

Civil Misc. Impleadment Application No.3
of 2025

1. Heard learned counsel appearing on
behalf of the parties.

2. We have perused the affidavit accompanying the impleadment application and find that sufficient cause has been made out for allowing the same. Accordingly, application is allowed.

3. Necessary impleadment be made
during the course of the day.

Order on the Petition

4. Heard learned counsel appearing on
behalf of the parties.

5. This is a writ petition under Article 226 of the Constitution of India filed by the petitioner, who is a child, through her biological parents.

6. It appears that the father and mother of the child are of different religion and have been living together since 2018. The child is presently one year and four months old. The parents of the child are apprehensive of certain threats from the private respondents who are the erstwhile in-laws of the biological mother.

7. It is to be noted that after the death of the erstwhile husband, biological mother started living with the biological father.

8. In our view, under the Constitutional scheme the parents, who are major, are entitled to live together, even if they have not undergone marriage (see: Gyan Devi vs. Superintendent, Nari Niketan, Delhi and others reported in (1976) 3 SCC 234; Lata Singh vs. State of U.P. and another reported in (2006) 5 SCC 475; and Bhagwan Das vs. State (NCT of Delhi) (2011) 6 SCC 396).

9. The parents of the child submits that the police authorities are not willing to register the first information report against the private respondents and the police authorities time and again are humiliating them when they approach the police station for lodging the first information report.

10 In light of the same, the Superintendent of Police, Sambhal is directed to ensure that the first information report should be registered at Police Station Chandausi, District Sambhal, if the parents of the child approach the police station. The Superintendent of Police, Sambhal is also directed to look into the aspect whether any security is required to be provided to the child and the parents in accordance with law. The authorities are also directed to act in accordance with the judgements indicated above.

11. With the above directions, the writ petition is allowed.

(2025) 4 ILRA 637

ORIGINAL JURISDICTION

CIVIL SIDE

**DATED: ALLAHABAD 02.04.2025 &
08.04.2025**

BEFORE

**THE HON'BLE SHEKHAR B. SARAF, J.
THE HON'BLE VIPIN CHANDRA DIXIT, J.**

Writ C No. 14904 of 2016

Ramji & Ors.	...Petitioners
Versus	
State of U.P. & Ors.	...Respondents

Counsel for the Petitioners:

Sri Sanjay Goswami

Counsel for the Respondents:

Ms. Shubhra Singh, Sri Mohan Srivastava (S.C.), Sri Neelambhar Tripathi

Civil Law - Constitution of India, 1950 – Article 226 – Urban Land (Ceiling and Regulation) Act, 1976 – Sections 6(1), 8(3), 8(4), 10(1), 10(3), 10(5) & 10(6) – Urban Land (Ceiling and Regulation) Repeal Act, 1999 – Sections 3 & 4 – Writ of

Mandamus – Surplus Land – De Facto Possession – Abatement of Proceedings – Notice Requirement – Jurisdiction of Writ Court – Mixed Question of Law and Fact – Delay in Filing Writ Petition.

Held:

The petitioners sought a writ of mandamus to restrain the respondents from dispossessing them from 67,138.12 square meters of land declared surplus under the Urban Land (Ceiling and Regulation) Act, 1976, in village Lawayan, District Allahabad. Ceiling proceedings against Bholanath, the original tenure holder, resulted in an ex-parte order dated 24.05.1983 under Section 8(4), followed by notifications under Sections 10(1) and 10(3), and a notice under Section 10(5) dated 27.05.1996. No voluntary surrender or forceful dispossession under Section 10(6) occurred, and Bholanath and his heirs remained in physical possession until his death in 2005 and thereafter. The St. failed to provide evidence of de facto possession, such as a memorandum of possession or panchnama, before the Urban Land (Ceiling and Regulation) Repeal Act, 1999. Relying on *St. of U.P. v. Hari Ram, (2013) 4 SCC 280*, and *M/s A.P. Electrical Equipment Corporation v. Tahsildar, 2025 SCC OnLine SC 447*, the Court held that mere vesting under Section 10(3) does not confer de facto possession, and proceedings abate under Section 4 of the Repeal Act if possession was not taken. The issue of possession, a mixed question of law and fact, was within the writ court's jurisdiction under Article 226, despite a 20-year delay, as the St.'s threat of dispossession in 2015 provided a fresh cause of action. The writ was allowed, and the St. was directed to update revenue records in favor of the petitioners within eight weeks. A correction application adding counsel's name was also allowed.

Writ petition allowed; revenue records to be updated in favor of petitioners.

Case Law Discussed:

1. Pt. Madan Swaroop Shrotiya Public Charitable Trust Vs St. of U.P., (2000) 6 SCC 325* – Proceedings abate under Section 4 of Repeal Act absent proof of possession.