2026:AHC:231743

Reserved on 30.10.2026
Delivered on 06.11.2026
AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - B No. - 4744 of 2026

Ram Palat and 4 others

…..Petitioner(s)

Versus

State of UP and 8 others

…..Respondent(s)

Counsel for Petitioner(s)	:	Dinesh Kumar Pandey
Counsel for Respondent(s)	:	Neha Sonker, C.S.C., Rameshwar Prasad Shukla

Court No. - 51

HON'BLE ARUN KUMAR, J.

1. Heard Sri Dinesh Kumar Pandey, learned counsel for the petitioners, learned Standing Counsel for respondent nos. 1 to 4 and Sri Madan Mohan, Advocate, holding brief of Ms. Neha Sonker, learned counsel for respondent nos. 6 to 9. Sri Rameshwar Prasad Shukla, Advocate, has accepted notice on behalf of respondent no. 5.

2. The present writ petition has been filed challenging the judgment and order dated 06.08.2026 passed by the Board of Revenue, Uttar Pradesh, Prayagraj, in Second Appeal No. SA/24/2000-2001, the judgment and order dated 06.11.2000 passed by the Additional Commissioner, Azamgarh Division, Azamgarh, in Appeal No. 261/A of 1998, and the order dated 23.07.1998 passed by the Sub-Divisional Officer/Up-Ziladhikari, Phoolpur, District Azamgarh, in four consolidated suits instituted under Section 229-B of the U.P. Zamindari

Abolition and Land Reforms Act, 1950 (hereinafter referred to as “the Act”).

3. The dispute relates to land comprised in Gata No. 455 Mi, measuring 0.202 hectare, situated in Village Para, Pargana Mahul, Tehsil Phoolpur, District Azamgarh.

4. The case set up by the petitioners is that they and their predecessors have been in possession and cultivation of the disputed land for a period exceeding fifty years. They claim to belong to the Scheduled Caste community and to be agricultural labourers. It is their case that the contesting private respondents were not in actual possession of the disputed land when the benefit of Section 122-B(4-F) of the Act was extended to them.

5. The petitioners further allege that the private respondents were not eligible to receive the benefit of the aforesaid provision. In particular, it is alleged that respondent Raja Ram was employed as a primary school teacher at the relevant time, whereas the petitioners were agricultural labourers dependent upon cultivation. The petitioners also allege that the other contesting respondents were economically better placed and possessed other agricultural land. These assertions are disputed matters and are noticed only as part of the petitioners’ case.

6. According to the petitioners, orders dated 29.01.1991 and 15.03.1991 were passed in proceedings under Section 122-B(4-F) of the Act in favour of the contesting private respondents. The petitioners contend that the said orders were passed without the private respondents being in actual possession of the disputed land.

7. The petitioners state that they moved an application for restoration/recall of the aforesaid orders on 06.06.1991, which was rejected on 29.01.1996. They thereafter approached the Additional Commissioner, Azamgarh Division, by filing revision proceedings. The said proceedings were dismissed by order dated 05.07.1996.

8. Subsequently, four suits, being Suit Nos. 352, 353, 354 and 355, were instituted under Section 229-B of the Act, seeking declaration of the petitioners' rights as bhumidhars with non-transferable rights in respect of the disputed land. The petitioners also sought removal of the names of the contesting private respondents from the relevant revenue records, alleging that the entries in their favour were illegal. The four suits were consolidated and decided by a common order dated 23.07.1998 passed by the Sub-Divisional Officer/Up-Ziladhikari, Phoolpur.

9. The appeal preferred against the said order was dismissed by the Additional Commissioner, Azamgarh Division, by judgment and order dated 06.11.2000. The petitioners thereafter preferred Second Appeal No. SA/24/2000-2001 before the Board of Revenue.

10. The Board of Revenue, by order dated 04.08.2022, formulated five substantial questions of law for consideration in the second appeal. The questions, in substance, related to the necessity of instituting a suit under Section 229-B for obtaining bhumidhari rights under Section 122-B(4-F), the maintainability and effect of a declaratory suit in the face of an earlier order granting benefit under Section 122-B(4-F), and the evidentiary value of rent receipts and irrigation slips relied upon by the parties.

11. The Board of Revenue, by the impugned judgment dated 06.08.2026, dismissed the second appeal. It held, inter alia, that the benefit under Section 122-B(4-F) had already been extended to the contesting respondents by earlier orders; that the petitioners had challenged those orders in the earlier proceedings but had failed; and that the revenue court dealing with the subsequent suits under Section 229-B could not pass an order contrary to the earlier orders granting the benefit under Section 122-B(4-F).

12. The Board further held that the earlier proceedings had attained finality and that the subsequent proceedings could not be used to reopen the determination made therein. It also considered the petitioners' challenge to the findings concerning the documentary evidence and held that the questions relating to rent receipts and irrigation slips did not give rise to substantial questions of law warranting interference in the second appeal.

13. The Board had earlier passed an interim order dated 20.02.2021 directing the parties to maintain status quo in respect of the disputed land. The said interim protection stood vacated upon dismissal of the second appeal.

14. Learned counsel for the petitioners submits that the courts below have committed a manifest error in treating the earlier proceedings under Section 122-B(4-F) as an absolute bar to adjudication of the petitioners' independent claim for declaration of bhumidhari rights under Section 229-B of the Act.

15. It is contended that Section 122-B(4-D) expressly provides a remedy to a person aggrieved by an order passed under Section 122-B to institute a suit before a court of competent jurisdiction for establishing the right claimed by him in the property. Section 229-B, according to learned counsel, provides the appropriate statutory forum for adjudication of a claim to bhumidhari rights.

16. It is further submitted that the revision proceedings decided on 05.07.1996 were before the Additional Commissioner under Section 333 of the Act and were not proceedings under Section 122-B(4-A) before the Collector. Consequently, the statutory restriction contemplated by Section 122-B(4-E) was not attracted. Learned counsel submits that an order passed under Section 122-B(4-F) is not revisable either under Section 122-B(4-A) or under Section 333 of the Act.

17. Learned counsel for the petitioners submits that the earlier proceedings under Section 122-B(4-F) were summary proceedings and could not have conclusively determined the interse rights of rival claimants asserting competing claims founded upon possession. The petitioners' independent claim, therefore, required adjudication in the suits instituted under Section 229-B.

18. Per contra, learned counsel appearing for the contesting private respondents submits that the benefit of Section 122-B(4-F) of the Act had already been extended to the private respondents by orders passed in the year 1991. It is contended that the petitioners challenged the said orders by moving restoration/recall proceedings and thereafter revision proceedings, which were dismissed. The orders granting the benefit under Section 122-B(4-F), therefore, attained finality and could not be reopened through subsequent suits under Section 229-B.

19. Learned counsel further submits that Section 122-B(4-F) confers a statutory right of bhumidhari with non-transferable rights upon a person satisfying the conditions prescribed therein. Once such right has accrued and has been recognised by the competent authority, a subsequent suit cannot be maintained merely to secure a contrary declaration. Reliance has been placed upon *Manorey alias Manohar,* (2003) 5 SCC 521and *Smt. Ram Piyari and Another v. Board of Revenue, U.P. and Others*, 1991 RD 192.

20. I have considered the rival submissions advanced by learned counsel for the parties and have examined the material placed on record. Since the controversy arising for consideration principally involves the interpretation of statutory provisions and the legal effect of the earlier proceedings, and the learned counsel appearing for the parties have been heard, the writ petition is being decided finally.

21. The principal question which arises for consideration is whether the earlier orders passed under Section 122-B(4-F), followed by the

unsuccessful restoration/recall and revision proceedings, could by themselves constitute an absolute bar to adjudication of the petitioners' subsequent suits under Section 229-B, without examining the statutory remedy available to a person aggrieved by an order passed under Section 122-B.

22. A connected question is whether the Board of Revenue was justified in treating the principle laid down by the Supreme Court in *Manorey alias Manohar* (supra), namely, that an eligible occupant need not institute a suit for declaration of rights under Section 122-B(4-F), as sufficient to hold that a rival claimant is precluded from instituting a declaratory suit under Section 229-B.

23. Section 122-B(4-F), in the version applicable to the relevant proceedings, carves out an exception in favour of an agricultural labourer belonging to a Scheduled Caste or Scheduled Tribe who satisfies the conditions prescribed therein. Upon fulfilment of those conditions, the statutory consequences contemplated by the provision follow, including admission as a bhumidhar with non-transferable rights. The conditions of eligibility, including the applicable date of occupation and the prescribed ceiling of landholding, must be examined with reference to the statutory provision as it stood on the legally relevant date. No finding on the fulfilment of those conditions by any party is called for in the present writ petition.

24. The legal effect of Section 122-B(4-F) has been authoritatively explained by the Supreme Court in *Manorey alias Manohar* (supra). The Supreme Court held that the provision does not merely afford protection against eviction but confers a positive statutory right of bhumidhari with non-transferable rights upon an occupant who fulfils the prescribed conditions. The right accrues by operation of the statutory provision and does not depend upon a separate allotment or formal declaration.

25. The Supreme Court emphasised that the provision is a beneficial measure of agrarian reform and that full effect must be given to the statutory fiction by which an eligible occupant is deemed to have been admitted as a bhumidhar with non-transferable rights. The statutory benefit, however, is available only to a person who satisfies the conditions prescribed by the provision.

26. The principle laid down in *Manorey alias Manohar* (supra) is binding and is not in dispute. The question before the Supreme Court, however, concerned the nature of the right conferred by sub-section (4-F) and the manner in which an eligible occupant could claim the benefit of that provision. The Supreme Court was not considering the precise question whether a person aggrieved by an order passed in favour of another claimant is precluded from instituting a suit to establish his own independent right in the property.

27. The expression that an eligible occupant need not institute a suit for declaration of his rights cannot be read as a prohibition against institution of a suit by another person who is aggrieved by an order passed under Section 122-B and seeks to establish his own right in the property. The absence of necessity to institute a suit for obtaining a statutory benefit is not the same as an express statutory bar against a suit by a rival claimant.

28. The question of the revisional jurisdiction against an order passed under Section 122-B(4-F) came up for consideration before a Division Bench of this Court in *Sushila and Another v. State of U.P. and Others*, (2015) 9 ADJ 589. The Division Bench examined the language of Section 122-B(4-A) and held that the revisional remedy under that provision is confined to an order passed by the Assistant Collector under sub-sections (3) or (4). An order passed under sub-section (4-F) does not fall within either of those provisions. The Division Bench, therefore, held that no revision under Section 122-B(4-A) is available against an order passed under Section 122-B(4-F).

29. The Division Bench further considered the general revisional jurisdiction under Section 333. It noticed that Section 122-B(4-C) operates notwithstanding anything contained in Sections 333 and 333-A. It held that the general revisional jurisdiction under Section 333 cannot be invoked against an order passed under Section 122-B(4-F), particularly when no appeal is provided against such an order under the statutory scheme.

30. In the present case, the Board of Revenue itself records that the petitioners had pursued revision proceedings under Section 333 before the Additional Commissioner, which were dismissed by order dated 05.07.1996. Such proceedings cannot be equated with a revision preferred before the Collector under Section 122-B(4-A), particularly when the order under challenge was one passed under sub-section (4-F), against which no such revision was available in law.

31. The distinction assumes significance in the context of Section 122-B(4-E), which provides that no suit referred to in sub-section (4-D) shall lie against an order of the Assistant Collector if a revision is preferred to the Collector under sub-section (4-A). The statutory restriction is specific. It refers to a revision before the Collector under sub-section (4-A). A proceeding under Section 333 before the Additional Commissioner against an order under sub-section (4-F), which is not revisable under that provision, cannot be treated as a revision under sub-section (4-A) so as to attract the restriction contained in sub-section (4-E).

32. It follows that the dismissal of the petitioners' revision proceedings on 05.07.1996 cannot, merely by reason of its having been described as a revision, be treated as a statutory revision under Section 122-B(4-A). The precise legal effect of the order dated 05.07.1996, including any objection founded upon finality or res judicata, is a matter which may require examination on the original record. However, the said

order cannot be treated as attracting the specific statutory bar contained in Section 122-B(4-E).

33. The statutory scheme of Section 122-B does not end with sub-section (4-F). Sub-section (4-C) provides for finality of orders passed under Section 122-B, but expressly makes such finality subject to sub-sections (4-A) and (4-D). Sub-section (4-D) provides that any person aggrieved by an order of the Assistant Collector or Collector in respect of any property under Section 122-B may file a suit in a court of competent jurisdiction to establish the right claimed by him in such property.

34. The nature of the suit contemplated by Section 122-B(4-D) has been explained by this Court in *Ishlam v. State of U.P. and Others*, Second Appeal No. 172 of 2021, decided on 02.01.2023. This Court held that a suit under sub-section (4-D) is not a proceeding for judicial review or an appeal against the order passed by the Assistant Collector in the summary proceedings. It is an independent suit to establish the right of the person claiming title to the property. If such right is established upon trial, it would prevail over the conclusion recorded in the summary proceedings.

35. The Court in *Ishlam (supra)* further held that where the right asserted is bhumidhari, the suit for declaration of such right is cognizable by the revenue court under Section 229-B read with the relevant entry in Schedule II to the Act. The competent court in such a case is the Assistant Collector, First Class, and not the civil court. It is, however, relevant to clarify that Ishlam arose out of proceedings under Section 122-B(3), followed by a revision under Section 122-B(4-A). Its discussion of the nature of the suit under Section 122-B(4-D) and the forum for adjudication of a claim to bhumidhari rights is relevant here; the decision is not being treated as one which directly decides the revisional or other consequences of an order passed under Section 122-B(4-F).

36. The aforesaid interpretation is consistent with the statutory scheme. Section 229-B provides for a declaratory suit by a person claiming to be a bhumidhar. The jurisdiction of the revenue court to adjudicate such a claim is expressly recognised by the Act. The remedy under Section 122-B(4-D), read with Section 229-B, thus enables a person aggrieved by an order concerning the property under Section 122-B to establish his independent claim to bhumidhari rights before the competent revenue court.

37. The question of competing claims founded upon possession over Gaon Sabha land has also been considered by this Court in *Nand Lal @ Nand Kumar and Another v. State of U.P. and 5 Others*, Writ-C No. 27204 of 2018, decided on 22.11.2018. In that case, rival villagers asserted rights over land on the basis of possession and the benefit of Section 122-B(4-F) had been extended to one of the claimants. This Court noticed that the summary machinery under Section 122-B(4-F) did not provide a mechanism for conclusively determining which of the competing private claimants was in actual possession. The parties were left at liberty to approach the appropriate court under the general law or the relevant land law for declaration of their rights.

38. A similar principle was noticed in *Barendra and Another v. State of U.P. and 3 Others*, Writ-C No. 29430 of 2018, decided on 11.09.2018. This Court observed that where two individuals claim possession over land belonging to a Gaon Sabha, the administrative authorities exercising powers under Section 122-B(4-F) do not have the machinery to adjudicate the competing claims of possession between the individuals. The parties have to seek adjudication before the competent court under the relevant land law or general law.

39. The judgment in *Katwaru v. Additional Commissioner, Administration and Others*, Writ-C No. 9013 of 2003, decided on 21.08.2019, also considered the principles laid down in *Manorey alias Manohar (supra)* and *Barendra (supra)*. It recognises the distinction

between the statutory benefit available to an eligible occupant under Section 122-B(4-F) and the adjudication of competing claims between private parties. The decision does not dilute the statutory benefit conferred by sub-section (4-F), but notices the limits of the summary machinery where rival claims are asserted.

40. The Board of Revenue has principally relied upon the fact that the orders passed under Section 122-B(4-F) in the year 1991 were challenged by the petitioners in restoration/recall proceedings and subsequent revision proceedings, which were dismissed. It has proceeded on the premise that the said orders had thereby attained finality and that the revenue court dealing with the subsequent suits under Section 229-B could not take any view contrary to them.

41. In doing so, the Board of Revenue has not correctly examined the effect of the Division Bench decision in *Sushila* (supra). The Board was required to consider whether the revision proceedings pursued before the Additional Commissioner under Section 333 were legally maintainable against orders passed under Section 122-B(4-F). The statutory scheme, as interpreted by the Division Bench, does not permit such a revision.

42. The Board was also required to examine the effect of Section 122-B(4-D), which expressly preserves the remedy of a suit for establishment of the right claimed in the property. The restriction under Section 122-B(4-E) is confined to the situation specified therein. The Board could not treat the mere institution and dismissal of a proceeding under Section 333 as equivalent to a revision under Section 122-B(4-A) before the Collector.

43. The Board has further relied upon the principle that a subsequent court cannot pass an order contrary to a judicial order which has attained finality. The principle of finality of judicial orders is undoubtedly important. However, its application must be considered in the light of the express statutory remedy under Section 122-B(4-D) and the law declared

by this Court regarding the nature of orders passed under Section 122-B(4-F).

44. The question whether the earlier proceedings operate as res judicata or issue estoppel cannot be answered merely by noting that the same land was involved in the earlier proceedings. It requires examination of the nature of the earlier proceedings, the jurisdiction exercised by the authority concerned, the issues actually raised and decided, the parties to those proceedings and the relief claimed in the subsequent suits.

45. The Board of Revenue has not undertaken that exercise in the light of the statutory scheme and the binding decision in *Sushila (supra)*. Instead, it has substantially treated the earlier proceedings as an absolute bar to the petitioners' subsequent declaratory claims. Such an approach does not give effect to the remedy expressly preserved by Section 122-B(4-D).

46. The Board had formulated substantial questions of law concerning the maintainability and effect of the declaratory suits. Those questions required consideration of the distinction between Section 122-B(4-F) and Section 122-B(4-D), the scope of the revisional jurisdiction under sub-section (4-A), the exclusion of the general revisional jurisdiction under Section 333, and the nature of the declaratory remedy under Section 229-B. The Board has not correctly addressed these statutory aspects.

47. The Additional Commissioner did refer to certain documents, including receipts and revenue records, and recorded conclusions regarding their evidentiary value. This Court is conscious that the appellate authority did not merely reproduce the conclusion of the trial court. However, its consideration of the documentary material was undertaken in the context of the earlier orders under Section 122-B(4-F) and the view that the petitioners could not secure a declaration contrary

to those orders. The appellate judgment does not demonstrate a complete adjudication of the petitioners' independent claim under Section 229-B after examining the statutory effect of sub-sections (4-C), (4-D) and (4-E) in the light of the binding decision in *Sushila (supra)*.

48. The Board also considered the questions relating to rent receipts, irrigation slips and other documentary material and held that they did not give rise to substantial questions of law. The appreciation of evidence is ordinarily within the domain of the courts below and a second appellate forum cannot interfere merely because another view is possible. However, where the legal premise on which the claim has been treated as concluded is itself open to correction, the consequential findings require reconsideration by the competent court in the proper statutory framework.

49. The error, therefore, is not that the Board was required to reappreciate every document or to record a finding regarding the actual possession of the parties. The error lies in treating the earlier orders under Section 122-B(4-F) and the subsequent proceedings under Section 333 as an absolute bar, without examining the statutory remedy available under Section 122-B(4-D) and the legal effect of the binding decision in *Sushila (supra)*.

50. The reliance placed by learned counsel for the private respondents upon *Manorey alias Manohar* (supra) and *Smt. Ram Piyari* (supra) has also been considered. The proposition that an eligible occupant acquires the benefit contemplated by Section 122-B(4-F) upon fulfillment of the statutory conditions is not in dispute. However, the proposition that such an occupant need not institute a suit for declaration of the statutory right cannot be extended to hold that a rival claimant is, in every circumstance, precluded from invoking the declaratory jurisdiction available under Section 229-B and the suit remedy contemplated by Section 122-B(4-D). The reliance placed upon *Smt. Ram Piyari (supra)* does not dispense with the necessity of examining the express statutory

remedy contained in Section 122-B(4-D), in the light of the statutory scheme and the subsequent binding interpretation in *Sushila (supra)*.

51. It is clarified that this Court is not holding that the petitioners have acquired bhumidhari rights in the disputed land. The statutory conditions prescribed under Section 122-B(4-F), if relied upon by any party, are required to be established in accordance with law. The institution of suits under Section 229-B does not, by itself, establish the petitioners' entitlement to the declaration sought.

52. Equally, this Court is not holding that the orders passed in 1991 under Section 122-B(4-F) are void or that the private respondents have not acquired any right under the said provision. The legal effect of those orders, in the context of the subsequent suits and the statutory remedy under Section 122-B(4-D), shall be examined by the competent revenue court on the basis of the original record.

53. The question whether the earlier proceedings operate as r*es judicata* or issue estoppel, or whether any other principle of finality precludes the petitioners from raising a particular claim, is also left open. The revenue court shall examine the pleadings and orders in the earlier proceedings, the issues actually decided, the parties thereto and the jurisdiction exercised by the authorities concerned. No final finding on that question is being recorded by this Court.

54. The court below shall also examine the actual orders passed in the proceedings under Section 122-B(4-F), the restoration/recall application and the revision proceedings decided on 05.07.1996. The nature of the revision proceedings and the provision under which they were instituted shall be ascertained from the original record. The court shall bear in mind the law laid down by the Division Bench in *Sushila (supra)* while considering their legal effect.

55. No opinion is being expressed by this Court on the actual possession of the disputed land, the date from which any party has been

in possession, the nature of cultivation, the caste status or occupation of any party, the landholding of any party, or the eligibility of any party to the benefit under Section 122-B(4-F). The allegations concerning the employment of respondent Raja Ram as a primary school teacher, the economic status of the contesting respondents and the documentary material relied upon by either side are all left open.

56. The evidentiary value of the revenue entries, khasra and khatauni, rent receipts, irrigation slips and other documents relied upon by the parties shall be assessed by the court below in accordance with law. This Court has not examined those documents for the purpose of recording any finding on the merits of the rival claims.

57. The court below shall adjudicate the suits in accordance with the provisions of Section 229-B read with Section 122-B(4-D) and the other applicable provisions of the Act. Any objection based upon res judicata, issue estoppel or any other statutory bar, if properly raised and legally available, shall be decided by a reasoned order on the basis of the relevant record. The suits shall not, however, be rejected merely on the assumption that the existence of an earlier order under Section 122-B(4-F), or the dismissal of a revision under Section 333, automatically bars every subsequent declaratory suit.

58. Accordingly, the writ petition is allowed.

59. The judgment and order dated 06.08.2026 passed by the Board of Revenue, Uttar Pradesh, Prayagraj, in Second Appeal No. SA/24/2000-2001, the judgment and order dated 06.11.2000 passed by the Additional Commissioner, Azamgarh Division, Azamgarh, in Appeal No. 261/A of 1998, and the order dated 23.07.1998 passed by the Sub-Divisional Officer/Up-Ziladhikari, Phoolpur, District Azamgarh, are hereby quashed.

60. The four consolidated suits, being Suit Nos. 352, 353, 354 and 355, are restored to their original numbers and remitted to the court of

the Sub-Divisional Officer/Up-Ziladhikari, Phoolpur, District Azamgarh, being the court of competent jurisdiction, for fresh adjudication in accordance with law.

61. The court below shall proceed to adjudicate the suits under Section 229-B read with Section 122-B(4-D) of the Act, keeping in view the observations made hereinabove. It shall afford all parties reasonable opportunity to lead such evidence as may be permissible in law and shall decide all issues arising in the suits by a reasoned judgment.

62. The court below shall not treat any observation made in this judgment as a finding on the merits of the rival claims. All questions of fact and law, including the legal effect of the earlier orders and proceedings, are left open for independent determination in accordance with law.

63. Having regard to the fact that the suits were instituted in the year 1997 and have remained pending for a considerable period, the court below is requested to make an endeavour to decide the suits expeditiously, preferably within a period of one year from the date of production of a certified copy of this judgment, subject to the cooperation of the parties.

64. There shall be no order as to costs.

(Arun Kumar, J.)

November 06, 2026
Ashok Kr.

Digitally signed by :-
ASHOK KUMAR
High Court of Judicature at Allahabad