



2026:AHC:124159

HIGH COURT OF JUDICATURE AT ALLAHABAD
MATTERS UNDER ARTICLE 227 No.- 12485 of 2025

KundanPetitioner(s)

Versus

State of U.P. andRespondent(s)
Another

Counsel for Petitioner(s) : Rama Goel Bansal, Shalini Goel
Counsel for Respondent(s) : G.A., Mayank

And the following cases connected with this leading case:

1.	A227/1539/2025 Umesh Kumar Upadhayay Vs. State of U.P. and 5 others
2.	A227/12515/2025 Mahtab Husain and another Vs. State of U.P. and 4 others
3.	A227/12524/2025 Aftab Husain and another Vs. State of U.P. and 4 others
4.	A227/13115/2025 Deendayal Singh and 5 others Vs. State of U.P. and another
5.	A227/13746/2025 Rajiv Shukla and another Vs. State of U.P. and 2 others
6.	A227/12434/2025 Smt. Hemlata Vs. State of U.P. and 3 others
7.	A227/13129/2025 Ruchi Gupta and 7 others Vs. State of U.P. and another
8.	A227/14400/2025 Girish Das Vs. State of U.P. and another
9.	A227/5149/2022 Babita Vs. The State of U P and 2 others
10.	A227/13622/2025 Asvad Vs. State of U.P. and another

Court No. - 37

AFR

Reserved on:25.02.2026

Delivered on:29.05.2026

HON'BLE VINOD DIWAKAR, J.

1. Heard Ms. Rama Goel Bansal and Ms. Shalini Goel, learned counsel for the petitioner, Mr. Rahul Chaudhary, learned *Amicus Curiae*, and the learned A.G.A. for the State-respondent, and perused the record.

2. The present petition has been instituted seeking to set aside the order dated 09.09.2025 passed by the learned Additional Sessions Judge, Court No. 1, Mathura, in Criminal Revision No. 32 of 2025, titled *Dhruv Singh v. State of U.P. and Another*, whereby the matter was remanded to the trial court for fresh consideration.

3. In brief, the facts are that the petitioner approached the City Magistrate, Mathura, with a complaint under Section 145 Cr.P.C., stating that he owns a marriage home in the name of Kundan Vatika, which comprises rooms, a hall, and a field. The complainant states that he constructed the marriage home on his own land. One room in the corner of the marriage hall was given to the security guard, Dhruv Singh, who began residing therein. The security guard now seeks to usurp the complainant's marriage hall by claiming that he had purchased it from Kundan Singh. The electricity and water connections are in the name of the complainant, Kundan Singh. On receipt of the complaint, the City Magistrate sought a report from the Inspector, P.S. Kotwali. The Inspector submitted a report dated 15.07.2021, stating that both parties are claiming their rights over the disputed property, that there is a likelihood of a breach of peace, and that an untoward incident may occur between the parties.

4. After hearing both the parties and perusing the record, the City Magistrate, vide order dated 10.08.2021, directed the Police to attach the property and hand over the same to a neutral person so as to avoid any serious conflict between the parties. Aggrieved by the same, respondent no. 2 moved an application on 30.09.2021 for recall of the order dated 10.08.2021. The City Magistrate, Mathura, again sought a report from the Police, pursuant to which a fresh report dated 23.11.2024 was submitted, stating that Civil Suit No. 874 of 2019, titled *Dhruv Singh v. Kundan Singh*, is pending trial before the Court of Civil Judge (Junior Division), Mathura, and that the trial court, vide order dated 25.09.2023, directed the parties to maintain status quo. After hearing both the parties and upon perusal of the record, the City Magistrate, Mathura, vide order dated 26.12.2024, dismissed the application of respondent no. 2 for recall of the order dated 10.08.2021.

5. Aggrieved by the order dated 26.12.2024, respondent no. 2, on 07.01.2025, preferred a criminal revision along with an application under Section 5 of the Limitation Act, assailing the orders dated 10.08.2021 and 26.12.2024, before the learned District and Sessions Judge, Mathura. The Revisional Court, vide order dated 09.09.2025, allowed the application under Section 5 of the Limitation Act and set aside the orders dated 10.08.2021 and 26.12.2024, with a direction to the City Magistrate, Mathura, to pass a fresh order.

6. The learned Additional Sessions Court has recorded its findings in paragraphs 18, 19, and 20 of the impugned order dated 09.09.2025, wherein it is observed that Civil Suit No. 874 of 2019, titled *Dhruv Singh v. Kundan and Others*, is pending between the parties, and that the civil court has jurisdiction to adjudicate the substantive rights of the parties regarding ownership and possession. Therefore, the proceedings under Section 146(1) Cr.P.C. were held to be erroneous, and after setting aside the orders dated 10.08.2021 and 26.12.2024, the Revisional Court directed the City Magistrate to decide the proceedings afresh. The Revisional Court, while recording such findings, placed reliance upon *Vinay Tyagi v. Irshad Ali*¹, *Amit Kapur v. Ramesh Chander*², *Ram Sumer Puri Mahant v. State of U.P. and Others*³, *Amresh Tiwari v. Lalta Prasad Dubey & Anr.*⁴, and *Surenda Singh & Ors. v. District and Sessions Judge Kanpur & Ors.*⁵.

7. The order passed by the Revisional Court is detailed, and the Revisional Court has discussed all aspects of the case, except returning findings on the application filed under Section 5 of the Limitation Act by respondent no. 2. There was no legal impediment before the Revisional Court to take a final view on the matter. No reason has been recorded for remanding the matter to the City Magistrate for a fresh decision; only findings on the merits of the case were recorded. If the Revisional Court had found the City Magistrate's order to be erroneous and, while recording its own observations, had set aside the said order, it ought to have decided

¹ [(2013) 5 SCC 762]

² [(2012) 9 SCC 460]

³ [(1985) 1 SCC 427]

⁴ [(2000) 4 SCC 440]

⁵ [1996 JIC 1000]

the matter on merits rather than remanding it for fresh consideration. In several petitions, a recurring issue has arisen where Revisional Courts consistently remand matters to trial courts after recording findings on the merits. The impugned orders are set aside as a matter of routine, and trial courts are directed to pass fresh orders taking into account the findings recorded by the Revisional Court. However, trial courts often pass similar orders again, leading to repeated remands. This cycle sometimes recurs multiple times before the matter reaches this Court. The Revisional Court, after applying an independent mind and recording its findings, has unnecessarily burdened the City Magistrate by remanding the matter to be decided afresh.

8. Such a procedure is unnecessary and counterproductive. It creates a vicious circle in which matters keep revolving between the trial court and the Revisional Court, and on many occasions, the matter ultimately reaches this Court either against the revisional order or against the subsequent order passed by the trial court pursuant to such remand.

9. Upon examining the impact of this recurring practice on the courts, this Court decided to hear all concerned parties so that the methodology adopted by the Revisional Courts may be examined in detail. A notice was issued to the Registrar General, with liberty to place on record any material regarding the aforesaid practice, and it was left to the learned Registrar General to take an informed decision in this regard.

10. Shri Rahul Chaudhary, Advocate, has been appointed as *Amicus Curiae* to assist the Court.

11. Shri Manish Goyal, learned Senior Counsel, assisted by Shri Sudhir Malhotra, learned counsel for the High Court, stated that it shall always be the endeavour of the Courts to curtail litigation and not to generate it. Any unnecessary remand gives rise to a fresh round of litigation, which ought to be avoided⁶. The Courts are already heavily burdened; therefore, once a Court has applied its judicial mind and

⁶ Suvej Singh v. Ram Naresh & Ors. ; 2025 SCC OnLine SC 2743; relied upon M.C. Mehta v. Union of India, 1999 (6) SCC 237; State of U.P. v. Sudhir Kumar Singh (2021) 19 SCC 706, Krishna Dutta Awasthi v. State of Madhya Pradesh (2024) SCC OnLine SC 493.

recorded findings on the merits of the case, in consonance with the principles laid down by the Constitutional Courts, there remains no palpable justification for Revisional Courts to remand the matter with a direction for a fresh decision.

12. Shri Rahul Chaudhary, learned *Amicus Curiae*, placing reliance upon Section 438 BNSS, 2023 (Section 397 Cr.P.C.), submitted that the object and scope of Section 438 BNSS, 2023 is the calling for of records to exercise the power of revision. Section 438 BNSS, 2023 empowers the High Court and the Sessions Judge to call for and examine the records of any inferior criminal court in order to determine whether the sentence, finding, or order of such inferior court is legal, correct, or proper, and whether the proceedings of such court are regular, so as to prevent miscarriage of justice and the perpetuation of illegality. The High Court, while exercising criminal revisional jurisdiction under Section 442 BNSS, 2023 (Section 401 Cr.P.C.), cannot convert a finding of acquittal into one of conviction. If the High Court believes that an acquittal was erroneous, it would not reverse it; instead, it would remand the matter for re-appreciation of evidence by the trial court.

12.1 The revisional jurisdiction of criminal courts constitutes an important supervisory mechanism within the criminal justice system. Under the provisions of the BNSS, the High Courts and Sessions Courts are vested with revisional powers to examine the correctness, legality, propriety, and regularity of findings, sentences, or orders passed by subordinate criminal courts. The object of revisional jurisdiction is not to provide another tier of appeal, but to ensure that subordinate courts act within the bounds of law and procedure and that miscarriage of justice is prevented.

12.2 Revisional jurisdiction is essentially discretionary and supervisory in nature. Unlike appellate jurisdiction, a Revisional Court ordinarily does not undertake a complete re-appreciation of evidence or substitute its own conclusions merely because another view is possible. The power is primarily exercised to correct jurisdictional errors, patent illegality,

procedural irregularity, perversity of findings, or gross miscarriage of justice. The Revisional Court is therefore expected to exercise restraint and intervene only where necessary in the interest of justice.

12.3 An important principle governing revisional jurisdiction is the doctrine of finality of litigation. Judicial proceedings cannot be permitted to continue indefinitely, as endless adjudication undermines certainty, stability, and public confidence in the justice delivery system. Finality of litigation is a foundational principle intended to ensure that disputes attain a conclusive determination after due adjudication. Repeated interference with reasoned judicial findings, particularly through unnecessary remands, defeats this principle and prolongs litigation without sufficient cause.

12.4 The administration of justice does not rest merely upon the adjudication of disputes, but also upon ensuring that litigation reaches its logical and lawful conclusion within a reasonable time. Judicial discipline and procedural propriety demand that Courts exercise their powers in a manner that advances finality of litigation rather than prolonging uncertainty between the parties.

12.5 An unnecessary remand by a superior or Revisional Court often gives rise to a fresh round of litigation, thereby reopening controversies that have already been examined on the merits. Such remands not only delay the delivery of justice but also impose additional financial and procedural burdens upon the litigants. In a justice delivery system where Courts are already facing heavy case pendency, avoidable remands contribute further to judicial backlog and impede the effective administration of justice.

12.6 Where a subordinate Court has applied its judicial mind to the facts and circumstances of the case and has recorded findings on merits, particularly after acting in consonance with the principles laid down by the Constitutional Courts, there ordinarily remains no palpable justification for a Revisional Court to remand the matter merely for a fresh decision. Revisional jurisdiction is primarily supervisory and is intended

to correct jurisdictional errors, material irregularities, or manifest illegality. It is not expected to routinely unsettle reasoned findings and direct *de-novo* adjudication in the absence of compelling circumstances.

12.7 The power of remand must therefore be exercised sparingly and only in cases where the ends of justice genuinely require reconsideration of material issues that could not have been adequately addressed earlier. Mechanical or routine remand orders defeat the principle of judicial economy and undermine public confidence in the efficiency of the justice system. Courts must remain conscious that justice delayed through repeated rounds of adjudication often amounts to justice denied.

12.8 Once findings on merits have been duly recorded after proper appreciation of evidence and applicable legal principles, the Revisional Courts should endeavour to finally adjudicate the dispute instead of remanding the matter unnecessarily. Such an approach alone would uphold the principles of finality, judicial efficiency, and expeditious dispensation of justice.

12.9 Learned *Amicus Curiae* has placed reliance⁷, besides other judgments⁸, to make out a case that the jurisdiction of the Court under Section 438 BNSS, 2023 can be exercised so as to examine the correctness, legality or propriety of the order passed by the trial court or the Court of SDM, as the case may be. The object of this provision is to set right a patent error or an error of jurisdiction or law. The next well accepted norm is that the revisional jurisdiction of the higher Court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The order has to keep in mind that the exercise of revisional jurisdiction should not lead to injustice *ex-facie*.

13. In the present case, as the matter has already been pending before the civil court and the civil court has directed the parties to maintain status

⁷ Amit Kapoor v. Ramesh Chander & Another; (2012) 9 SCC 460

⁸ State of Andhra Pradesh v. Pituhuk Sreenivasa Rao; (2000) 9 SCC 537;
Jamin & another v. State of U.P. & another (2025) 3 SCC (Cri) 778;
Ram Briksh Singh and others v. Ambika Yadav and another, 2004(7) SCC 665;
Suvej Singh v. Ram Naresh & others, Civil Appeal No. 14661 of 2025;
Madhu Limaye v. State of Maharashtra (1977) 4 SCC 551

quo, there is no justification for remanding the matter to the City Magistrate to decide afresh. Moreover, the suit was filed in 2019. No effective order has been passed with respect to the possession and ownership of the land; and as recorded in the inquiry report of the Investigating Officer, there is an imminent threat to the life and property of the parties. Therefore, the City Magistrate's decision to attach the property and hand it over to a neutral third party appears to be just and proper. Furthermore, the recall application was filed subsequent to the institution of the suit, along with an application under Section 5 of the Limitation Act, 1963, by respondent no. 2.

14. Accordingly, the impugned order dated 09.09.2025 passed by the learned Additional Sessions Judge, Court No. 1, Mathura, in Criminal Revision No. 32 of 2025, titled *Dhruv Singh v. State of U.P. and Another*, is set aside.

15. The present petition is ***allowed*** in the above terms.

16. In all the connected matters, a common question has arisen for consideration before this Court. In each of the cases, the Revisional Courts, after hearing the parties and examining the records, proceeded to set aside the orders passed by the Sub-Divisional Magistrate under Section 164 of BNSS, 2023 [Section 145 Cr.P.C.] and/or by the Magistrates under Section 175(3) of BNSS, 2023 [Section 156(3) Cr.P.C.], while simultaneously recording findings touching upon the merits of the controversy. Despite having undertaken such exercise, the Revisional Courts thereafter remanded the matters back to the trial courts for fresh adjudication in light of the observations recorded in the revisional orders.

17. However, in none of the aforesaid matters did the Revisional Courts assign any cogent reason as to why they were unable to finally adjudicate the controversies themselves while exercising revisional jurisdiction. Once the Revisional Courts had examined the records, heard the parties, and recorded findings touching upon the merits of the disputes, the routine exercise of remanding the matters for fresh consideration ought to have been avoided. Such remand orders, in the absence of any

demonstrated legal or procedural necessity, unnecessarily prolong litigation and result in avoidable multiplicity of proceedings.

18. Accordingly, all Revisional Courts in the State of Uttar Pradesh are expected to exercise due restraint and circumspection while remanding matters to subordinate courts for fresh consideration, particularly in proceedings arising under Section 164 of BNSS, 2023 and Section 175(3) of BNSS, 2023, as well as other miscellaneous proceedings of a similar nature. The power of remand is an exception and not the rule. Even Section 442(3) of BNSS, 2023 recognises the limited contours within which revisional jurisdiction is to be exercised. Therefore, remand should be resorted to only in rare and exceptional circumstances where the Revisional Court, for reasons to be specifically recorded, finds itself unable to adjudicate the matter finally on merits.

19. Unfortunately, a contrary practice appears to have developed in the district courts of Uttar Pradesh whereby matters are routinely remanded despite the Revisional Courts having already examined the merits. Such an approach not only burdens the trial courts and the Courts of the Sub-Divisional Magistrate with repetitive proceedings but also contributes to unnecessary docket congestion, thereby adversely affecting the administration of justice. This practice, therefore, deserves to be discontinued.

20. This Court has no hesitation in observing that the routine and repetitive practice of remanding matters, particularly after entering into the merits of the controversy, reflects an avoidable reluctance on the part of the Revisional Courts to finally adjudicate the issues entrusted to them. An order of remand, unless founded upon a compelling legal or procedural necessity, is a significant indicator either of judicial hesitancy in assuming adjudicatory responsibility or of a lack of clarity in the understanding and application of governing legal principles. Revisional jurisdiction is intended to correct jurisdictional and legal errors and, wherever the record is sufficient, the Revisional Court is not only expected but duty-bound to

render a conclusive adjudication rather than prolong the lis through mechanical remands.

21. Repeated remands merely burden the judicial system and yield no meaningful relief to litigants. The Revisional Courts are required to act with greater sensitivity and responsibility, particularly when the trial court records are already available before them, and even otherwise, such records may be summoned if necessary. Unwarranted remands result in unnecessary wastage of judicial time and ultimately defeat the cause of justice.

22. The matters in the aforesaid cases are being remitted to the concerned Revisional Courts with 'the object of sensitizing judicial officers' to the settled principle that, once findings on merits have been recorded upon examination of the record and hearing of the parties, it is ordinarily unnecessary to remand the matter for fresh adjudication by the subordinate court. It is expected that, in future, the Revisional Courts shall adopt a more cautious, judicious, and legally sustainable approach while exercising the power of remand, and shall resort to such course only where compelling legal or procedural necessity so warrants.

23. For the aforesaid reasons, the orders under challenge in (1) A-227/1539/2025- *Umesh Kumar Upadhyay v. State of U.P. and 5 Others*, (2) A-227/12515/2025- *Mahtab Husain and Another v. State of U.P. and 4 Others*, (3) A-227/12524/2025- *Aftab Husain and Another v. State of U.P. and 4 Others*, (4) A-227/13115/2025- *Deendayal Singh and 5 Others v. State of U.P. and Another*, (5) A-227/13746/2025- *Rajiv Shukla and Another v. State of U.P. and 2 Others*, (6) A-227/12434/2025- *Smt. Hemlata v. State of U.P. and 3 Others*, (7) A-227/13129/2025- *Ruchi Gupta and 7 Others v. State of U.P. and Another*, (8) A-227/14400/2025- *Girish Das v. State of U.P. and Another*, (9) A-227/5149/2022- *Babita v. State of U.P. and 2 Others*, and (10) A-227/13622/2025- *Asvad v. State of U.P. and Another*- are hereby quashed and set aside, with a direction to the respective Revisional Courts to pass fresh orders. In cases where the trial court has already complied with the orders passed by the Revisional

Courts and this Court as well, this order shall have no bearing on such cases.

24. Neither Shri Manish Goyal, learned counsel appearing for the High Court, nor Shri Rahul Chaudhary, learned *Amicus Curiae*, has placed before this Court any judgment or judicial precedent justifying the routine practice of remanding matters to subordinate courts for fresh consideration after having set aside the impugned orders.

25. I place on record my appreciation for the effective assistance rendered and the valuable suggestions advanced by Shri Rahul Chaudhary, learned *Amicus Curiae*.

26. The Registrar (Compliance) is directed to forthwith circulate a copy of this order to all learned District Judges in the State of Uttar Pradesh. Upon receipt thereof, the learned District Judges shall convene meetings within their respective judgeships for discussion, compliance, and record.

27. A copy of this order shall also be transmitted to the Director, Judicial Training and Research Institute, Lucknow, Uttar Pradesh, for necessary reference and training purposes. The Judicial Training and Research Institute shall ensure that the aforesaid principles are disseminated across all levels of the subordinate judiciary in the State of Uttar Pradesh through periodic refresher programmes and workshops, so as to sensitize judicial officers, particularly those exercising revisional jurisdiction, to the settled legal position that remand ought to be an exception and not the rule.

28. All the connected petitions are disposed of with the aforesaid observations and directions.

May 29, 2026
Anil K. Sharma

(Vinod Diwakar, J.)