



HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 2229 of 2026

Faimuddeen And 2 Others

.....Petitioner(s)

Versus

State Of U.P. And 7 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Shamsuddin Khan, Syed Ahmed Faizan, Zaheer Asghar
Counsel for Respondent(s)	: C.S.C., Sant Ram Sharma

Court No. - 2

**HON'BLE ATUL SREEDHARAN, J.
HON'BLE SIDDHARTH NANDAN, J.**

1. There are three Petitioners. They reside at 386 Thokchand, Ward No. 11 Bharua Sumerpur in District Hamirpur. Petitioners 1, 2 and 3 are son, father and mother, respectively.

2. This Court heard extensive preliminary arguments of both sides and the brief facts and questions of law that emerge are as follows. An FIR bearing Crime No. 20/2026 came to be registered against one Aafan Khan, S/o. Ainuddin@Maulana Khan, R/o. Kamlesh Tiraha, Kasbah and Thana Sumerpur, District Hamirpur, u/ss. 64(1), 62/351(3), 61(2) of the BNS and s. 67(A) of the IT Act, s. 3/4 of the POCSO Act and s. 3/5(1) of the U.P Prohibition of Unlawful Religious Conversion Act. The accused Aafan Khan is the cousin of Petitioner No.1 and the nephew of Petitioner Nos. 2 and 3. It is so stated on behalf of the Petitioners that a mob targeted the house of the Petitioners immediately after the incident, allegedly in collusion with the police.

3. Preliminary submissions have been made by both sides. The case of the Petitioners appears to be (1) that though the Petitioners are not co-accused in the FIR, the Respondents have issued a notice to the Petitioner No.2 who owns the residential house in which they dwell, immediately after the commission of the offence and registration of the FIR. (2) A commercial property registered in the name of the Petitioner No.3 as "Indian Lodge", has been sealed by the Respondents, (3) a saw mill, the license of which has been renewed in the name of the Petitioner No.2 on 11/02/2025, has lapsed and its renewal is pending, which too has been sealed by the Respondents, and (4) an apprehension shared by the Petitioners that their properties are marked for destruction by mechanical means (a euphemism for bull dozer

action). The obvious primary prayer is judicial intervention to prevent the anticipated destruction of the properties.

4. The State on the other hand has raised a preliminary objection that **(1)** the petition is premature as no cause of action has arisen, for the Petitioners have to respond to the notices issued to them, **(2)** that the residence and the lodge have not been sealed till date, **(3)** that the Petitioners have not approached the Court with clean hands as they have concealed the fact that the saw mill was sealed as prohibited wood (neem and dhaak) were recovered from its premises which was not disclosed in the petition, and **(4)** an assurance has been given orally by Mr. Anoop Trivedi, the Ld. Additional Advocate General that no demolition would take place without adhering to the procedure established by law and without giving a due opportunity to the Petitioners to place their case before the authorities concerned.

5. This Court is a witness to several such cases where the notice for demolition is issued to persons occupying a dwelling place immediately following the commission of an offence and thereafter, demolished after the ostensible fulfilment of statutory requirements. These demolitions have continued, notwithstanding the imprimatur of the Supreme Court in **Re: Directions in the Matter of Demolition of Structures (Writ C No. 295 of 2022 – (2025) 5 SCC 1)** to the principle that punitive demolition of structures is violative of the separation of powers as the authority to punish vests with the judiciary.

6. Therefore, bearing in mind the overarching nature of the case spanning the right of the state to demolish a structure and the rights of its occupants under Article 14 and 21, and how these demolitions continue in the State despite the judgement of the Supreme Court mentioned in the preceding paragraph that punitive demolitions of structures shall be prohibited, this Court feels it essential to frame some questions of law having a direct bearing in the present case.

7. Following are the questions that this Court expects the parties to address. **(1) Is there non-compliance of the judgement of the Supreme Court in Re: Directions in the Matter of Demolition of Structures (Writ C No. 295 of 2022 – (2025) 5 SCC 1) with specific reference to paragraphs 85 and 86 of that judgement?, (2) Does the authority to demolish, justify the act of demolishing a structure or, is there a duty on the anvil of parens patriae upon the State, not to demolish a dwelling place in the absence of public need/purpose?, (3) Would steps taken in the direction of demolishing a structure immediately following the commission of an offence, be a colourable exercise of executive discretion?, (4) how is the**

High Court to balance the conflicting interests between the statutory authority of the State to demolish a structure and the fundamental right of the average citizen under article 21 and 14, to prevent it?, and (5) can "reasonable apprehension" of demolition be a cause of action for a citizen to approach this Court and if 'yes', what is the bare minimum for this Court to hold the existence of such "reasonable apprehension"?

8. As regards Stay Application No. 2/2026, interim order if any passed earlier shall continue till further orders. The police shall provide protection to the life limb and property of the Petitioners so that they may have free ingress and egress to their properties.

9. List this case for further hearing on 09/02/2026.

January 21, 2026

Noman

(Siddharth Nandan,J.) (Atul Sreedharan,J.)