



2026:AHC:38230-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT – C No. - 3256 of 2026

Mukteshwar Mahadev Mukteshwari
Durga Dharmarth Seva Samiti and
another

.....Petitioners(s)

Versus

State of U.P. and 3 Others

.....Respondents(s)

Counsel for Petitioners(s) : Trivikram Singh
Counsel for Respondent(s) : Abhishek Kumar Yadav, C.S.C.
Vineet Sankalp

Reserved on 13.2.2026

Delivered on 20.2.2026

AFR

Court No. - 4

HON'BLE NEERAJ TIWARI, J.
HON'BLE GARIMA PRASHAD, J.

(Per : Garima Prashad, J.)

1. Heard learned counsel for the petitioner, learned Standing Counsel for the State-respondents, and Sri Abhishek Kumar Yadav, learned counsel appearing for respondent no.3.

2. The present writ petition has been filed seeking a direction to the respondent authorities to demolish the building owned by the petitioner/Mukteshwar Mahadev Mukteshwari Durga Dharmarth Seva Samiti, situated at Englishialine, House No. S-21/71-A, Varanasi, which, according to the petitioner, is in a highly dilapidated condition and poses

imminent danger to passers-by as well as to persons residing in the building and its neighborhood.

3. Learned counsel for the petitioner submits that respondent no.3–Nagar Nigam, Varanasi issued a notice dated 03.08.2021 under Section 331(1)(2) of the Uttar Pradesh Municipalities Act, 1959 (hereinafter referred to as “the Act of 1959”), directing demolition of the unsafe structure within seven days. Pursuant thereto, the petitioner submitted representations dated 03.08.2021, 13.08.2021 and 17.08.2021 before the concerned Magistrate. It is further submitted that the Municipal Commissioner sought a report from Police Station Sigra, which submitted a detailed report dated 21.08.2021 confirming that the building had become dilapidated and required demolition. Despite the aforesaid, no effective action was taken. Consequently, on 29.08.2025, a portion of the building collapsed, disrupting traffic and posing serious risk to public safety.

4. Learned Standing Counsel, on instructions, submits that the notice regarding the dangerous building was issued in 2021 and that a part of the structure has already been demolished by the petitioner. However, certain tenants continue to reside in the remaining portion, which has not been repaired. It is further stated that one tenant has instituted Original Suit No. 2307 of 2021 against the owner and that proceedings are still pending, which fact has allegedly been concealed by the petitioner.

5. Refuting the aforesaid submissions, learned counsel for the petitioner contends that the pendency of litigation has been duly disclosed in paragraphs 15 and 16 of the writ petition as well as in the supplementary affidavit. It is submitted that a Suit No. 1977 of 2021 was filed by a tenant Rita Jaiswal, wherein interim injunction was initially declined but subsequently granted in appeal, but the suit itself came to be dismissed in default on 17.03.2023. As on date, no interim protection subsists in her favour. It is further submitted that tenant Vinod Kumar has

instituted Suit No. 2307 of 2021 seeking permanent injunction, however, no interim relief has been granted therein. His earlier claim of ownership before the Small Causes Court also stood withdrawn. Similarly, a third tenant Anant Kumar filed Suit No. 2971 of 2021 seeking injunction, but he too has failed to secure any interim protection from any competent court.

6. Learned counsel for the petitioner vehemently submits that none of the tenants has obtained any stay against demolition or dispossession from any competent court. Importantly, no proceedings have been initiated challenging the demolition notice dated 03.08.2021. It is contended that while the Uttar Pradesh Regulation of Tenancy Act, 2021 protects tenant rights, such protection cannot override statutory powers under Section 331 of the Act of 1959 where a structure is found to be ruinous and dangerous to human life.

7. This Court has examined the provisions of the U.P. Regulation of Urban Premises Tenancy Act, 2021 so as to ensure that the right available to a tenant under the statutory scheme is clearly protected. Chapter V of the Tenancy Act, 2021, contains provisions relating to protection of tenants against eviction. Section 21(1) of the Tenancy Act, 2021 confers protection upon a tenant in the manner provided in the Statute itself. Sub-section (2) of Section 21 permits the Rent Authority to make an order of eviction where the tenanted premises requires demolition. Sub-section (2) (e) of Section 21 reads as under :-

*“21. Protection of tenant against eviction- (1)
 (2) The Rent Authority may, on an application made to it by the landlord in such manner as may be prescribed, make an order for eviction and recovery of possession of the premises on one or more of the following grounds, namely:-*

(a)

(b)

(c)

(d)

(e) *where it is necessary for the landlord to carry out any repair or construction or rebuilding or addition or alteration or demolition in respect of the premises or any part thereof, which is not possible to be carried out without the premises being vacated:*

Provided that after such repair, construction, rebuilding, addition or alteration, the tenant may be allowed to reoccupy the premises only when it has been mutually agreed to between the landlord and the tenant and a new tenancy agreement has been submitted with the Rent Authority:

Provided further that the tenant shall not be allowed to reoccupy the premises,-

(i) in the absence of submission of such mutual tenancy agreement with the Rent Authority; and

(ii) in cases where the tenant has been evicted under the orders of a Rent Authority.

.....
.....”

8. Section 4 of the Tenancy Act, 2021 provides for tenancy agreement. It also deals with tenancy created before the commencement of the Tenancy Act, 2021.

9. Having examined the statutory framework, this Court finds that any tenant claiming protection under the Tenancy Act, 2021 is at liberty to approach the competent Authority for appropriate relief, which may

thereafter pass suitable orders in accordance with law. The right which is available to a tenant in respect of dilapidated building, however, will have to be enforced subject to the provisions of Section 331 of the Act, 1959 which deal with a special exigency where the tenanted building requires imminent demolition for protection of life of individuals. Sections 331(1) and 331(3) of the Act, 1959 are as under:-

331 (1) If it shall at any time appear to the Municipal Commissioner that any structure (including under this expression any building wall, parapet, pavement, floor steps, railing, door or window frames or shutters or roof, or other structure and anything affixed to or projecting from or resting on, any building, wall, parapet or other structure) is in a ruinous condition or likely to fall, or in any way dangerous to any person occupying, resorting to or passing by such structure or any other structure or place in the neighborhood thereof, the Municipal Commissioner may, by written notice, require the owner or occupier of such structure to pull down, secure, remove or repair, such structure or thing or do one or more of such things and to prevent all cause of danger therefrom.

(2)

(3) If it appears to the Municipal Commissioner that the danger from a structure which is ruinous or about to fall is imminent he may, before giving notice as aforesaid or before the period of notice expires, fence off, take down, secure or repair the said structure or take such steps or cause such work to be executed as may be required to arrest the danger.”

10. This Court further notes that Section 334 of the Uttar Pradesh Municipalities Act, 1959 expressly empowers the Municipal Commissioner to

order vacation of a building or any portion thereof where such structure is found to be in a ruinous or dangerous condition within the meaning of Section 331. Upon issuance of such notice, every person in occupation is statutorily bound to vacate the premises, and continued occupation is prohibited unless the notice is withdrawn. The provision also authorises removal of occupants through police assistance in case of non-compliance. Sections 334 of the Act, 1959 are as under:-

334. (1) Notwithstanding the provisions of any other law to the contrary, the [Municipal Commissioner] may, by notice in writing specifying the grounds therefor, order any building or any portion thereof to be vacated forthwith or within such time as may be specified in the notice —

(a)..

(b)..

(c) if the building or part thereof is in a ruinous or dangerous condition within the meaning of section 331.

(2) The affixing of such written notice on any part of such premises shall be deemed a sufficient intimation to the occupiers of such building or portion thereof.

(3) On the issue of a notice under sub-section (1) every person in occupation of the building or portion thereof to which the notice relates shall vacate such building or portion as directed in the notice and no person shall so long as the notice is not withdrawn enter the building or portion thereof except for the purpose of carrying out any work which he may lawfully carry out.

(4) The [Municipal Commissioner] may direct that any person who acts in contravention of sub-section (3) shall be removed from such building or part thereof by any police officer.

(5) The [Municipal Commissioner] shall, on the application of any person who has vacated any premises in pursuance of a notice under sub-section (1), reinstate such person in the premises on the

withdrawal of such notice, unless it is in his opinion impracticable to restore substantially the same terms of occupation by reason of any structural alteration or demolition.

(6) The [Municipal Commissioner] may direct the removal from the said premises by any police officer of any person who obstructs him in any action taken under sub-section (5) and may also use such force as is reasonably necessary to affect entry in the said premises.

11. In the present case, once the building of *Mukteshwar Mahadev Mukteshwari Durga Dharmarth Seva Samiti* has been officially declared dangerous and a demolition notice dated 03.08.2021 has already been issued, the occupants are under a legal obligation to vacate the premises. Their continued occupation, despite clear findings of structural danger and partial collapse of the building on 29.08.2025, is directly contrary to Section 334(3). The Municipal Commissioner is, therefore, fully empowered under Section 334(4) to seek police assistance for removal of occupants and to ensure execution of demolition.

12. While sub-section (5) preserves limited reinstatement rights upon withdrawal of notice, such provision has no application where demolition becomes inevitable due to safety concerns. Accordingly, the statutory scheme makes it abundantly clear that once a building is declared dangerous, individual occupancy rights stand subordinated to public safety, and obstruction to demolition cannot be legally sustained.

13. This Court also takes note of the settled legal position that *public safety overrides tenancy rights*. A tenant's right to occupy premises under the U.P. Regulation of Urban Premises Tenancy Act, 2021 cannot be invoked to compel continued residence in a structure declared dangerous, nor can such right be used to expose occupants or the public to risk of life. Once a building is found unfit for human habitation, municipal authorities are legally empowered to proceed with demolition, and tenants cannot obstruct such statutory action.

14. It is equally well recognised that landlords are entitled to seek eviction where premises become unsafe for occupation. Conversely, tenants possess the right to demand maintenance of the property in habitable condition, and in case of neglect, may undertake necessary repairs and seek reimbursement in accordance with law.

15. However, none of these private rights can prevail over statutory duties of the Nagar Nigam to remove dangerous structures. That said, procedural fairness requires that occupants be afforded a reasonable opportunity to remove their personal belongings prior to demolition, unless emergent circumstances warrant immediate action.

16. It is held that the rights of the tenants in such an exigency will have to be dealt with under the Tenancy Act, 2021. The tenants, however, will not be entitled to object to the expeditious demolition of the tenanted building, particularly when the authorities have inspected the said premises and found the requirement of its demolition as imperative. The applicable scheme under the Act, 1959 for protection of life of individuals on account of building being dilapidated and posing threat to life of individuals will have to be given primacy over the protection of tenancy rights of individual applicants.

17. In view of the facts and circumstances, this Court is satisfied that the building in question is in a ruinous condition and deserves to be demolished without waiting for the dispute with the tenants to be resolved. Whatever rights they may be having under the provisions of Tenancy Act will always be available to them and the same cannot be held to be a ground to further delay the demolition of the building in question.

18. Accordingly, the Respondent No.3 is directed to demolish the building in question within two weeks from today duly notifying the date and time of demolition. Respondent No.4 is directed to ensure that necessary police force is provided during the time of demolition to ensure safety, security as well as maintenance of law and order. The respondent

authority may recover the costs so incurred in demolition of the building from the petitioner as per law.

19. With the aforesaid observations/ directions, the writ petition is allowed.

(Garima Prashad, J.)

(Neeraj Tiwari, J.)

February 20, 2026

Kuldeep