



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/S 528 BNSS No. - 2605 of 2026

Indra Pal Tiwari

.....Applicant(s)

Versus

State of U.P. Thru. Prin. Secy. Home Lko. and another

.....Opposite Party(s)

Counsel for Applicant(s)	: Piyush Pathak, Pranav Mishra
Counsel for Opposite Party(s)	: G.A., Mukut Bihari Tripathi, Ms.lalita Pradeep, Ram Vishal Tripathi

Court No. - 12

HON'BLE RAJEEV SINGH, J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.
2. The present application has been filed with the prayer to quash the impugned order dated 08.06.2026 passed by the learned Additional Session Judge, Court No.9, Lucknow in Criminal Revision No.93 of 2026 (Mukesh Vs. State of U.P. & Anr.).
3. Learned counsel for the applicant submits that applicant is having only one access to reach the main road but the private respondent is creating hindrance, then he filed application under Section 133 Cr.P.C. and suit for injunction was also filed but the application under Section 133 Cr.P.C. was rejected by the court below, thereafter, revision was filed, which was also dismissed.
4. On the last date, with the consent of the learned counsel for the parties, Advocate Commissioner was appointed, and the report dated

16.08.2026 was submitted by the Mr. Rakesh Kumar Singh, Advocate Commissioner. The contents of the aforesaid report are as under :-

माननीय उच्च न्यायालय लखनऊ खण्डपीठ लखनऊ

A-528 (BNSS)No-2605/2025

इन्द्रपाल तिवारी

बनाम

उ.प्र० राज्य एवं अन्य

कमीशन आख्या

सादर अवगत कराना है कि माननीय उच्च न्यायालय लखनऊ द्वारा उपरोक्त संदर्भित याचिका में दिनांक 07/08/2026 को निम्न आदेश पारित किये गये

The case arises out of proceedings under Section 133 CrPC.

Learned counsel for the applicant has submitted before this Court that only one rasta is available to him, which has been used by him for a long time, and the same is situated in front of the house of opposite party No. 2. It has been further submitted that opposite party No. 2 has obstructed the said rasta, due to which the applicant is suffering.

On the other hand, learned counsel for opposite party No. 2 has submitted that the applicant has other alternate ways for ingress and egress. Therefore, the land of opposite party No. 2 cannot be claimed as a rasta.

In view of the aforesaid facts, this Court wants to ascertain whether there is any other public way or rasta available for the ingress and egress of the applicant, or whether the way lying in front of the house of opposite party No. 2 is the only way.

Let a commission be issued for the said purpose. The commission report shall be submitted before this Court by Shri Rakesh Kumar Singh, Advocate, (AOR No.B/R 0554 of 2012), who is appointed as Commissioner. He shall submit the report within three weeks.

The applicant shall furnish a cheque of Rs. 15,000/- towards expenses to Shri Rakesh Kumar Singh, Advocate within one week. The Commissioner shall conduct the local inspection and furnish the commission report in a sealed cover before this Court on the next date of listing.

The Commissioner shall visit the site on 16.08.2026, on which date the parties shall remain present at the site.

It is made clear that the parties shall cooperate with the Commissioner. Learned counsel for the respective parties shall inform their clients about this order.

List on 03.09.2026 as fresh.

Till the next date of listing, the parties shall maintain status quo over the disputed land.

उपरोक्त में वर्णित माननीय उच्च न्यायालय लखनऊ के आदेशानुसार नामित कमिश्नर द्वारा दिनांक 16/8/26 को विवादित स्थल पर पहुंचकर गहन निरीक्षण किया गया व उक्त विवादित स्थल का नक्शा नजरी तैयार किया गया। विवादित स्थल का स्थलीय निरीक्षण किये जाने अनुसार याची (इन्द्रपाल तिवारी) का मकान नीले रंग से व विपक्षी संख्या 2 (मुकेश तिवारी) के मकान को लाल रंग से दर्शित किया गया।

याची (इन्द्र पाल तिवारी) के मकान के दक्षिण महेन्द्र तिवारी व 7 अन्य लोगो का मकान था जो कि वर्तमान समय में खण्डहर के रूप में है तथा उस पर पेड़ लगे हैं व उत्तर में विपक्षी संख्या 2 का व अन्य लोगो के मकान हैं, कोई रिक्त स्थल नहीं है। याची व विपक्षी सं० 2 के मकान के पश्चिम सम्पूर्ण स्थल रिक्त (प्लेन) में प्रदर्शित है, ये रिक्त स्थल आबादी की भूमि है जिसका उपयोग रास्ते के रूप में याची (इंद्र पाल तिवारी) विपक्षी संख्या 2 (मुकेश तिवारी) वैजनाथ व महेन्द्र तिवारी व देवेश तिवारी द्वारा प्रयोग किया जाता रहा है।

स्थलीय निरीक्षण अनुसार याची (इंद्र पाल तिवारी) के पास विपक्षी संख्या 2 (मुकेश तिवारी) के घर के सामने से होकर जाने के अलावा अन्य और कोई दूसरा रास्ता / मार्ग मौके पर नहीं है।

ग्रामीणों द्वारा भी नाम न बताने की शर्त के साथ अवगत कराया गया कि मात्र इसी स्थल को याची व विपक्षी द्वारा आने जाने हेतु इस्तेमाल कई वर्षों से किया जा रहा है

स्थलीय नक्शा नजरी मय कमीशन रिपोर्ट दिनांक 16.08.2026 माननीय न्यायालय के सुलभ सन्दर्भ हेतु अवलोकनार्थ प्रेषित ।


16/08/2026
नामित कमिश्नर
राकेश कुमार सिंह
AOR-B/R-0554/2012

संकेतिक :-

- विवाह स्थल
- मकान पुष्पासिनी
- मकान कुंवर
- मकान श्रीमती
- मकान लक्ष्मण
- मकान कुंवर
- मकान बैजनाथ

5. Considering the submissions of learned counsel for the parties and report of the Advocate Commissioner, it is evident that there is no other way to approach main land by the petitioner, therefore, petition is **allowed** by setting aside the impugned order subject to the decision of the suit pending before the competent court.

Gaurav/-