

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****CMPMO No.521 of 2023****Decided on: 24.11.2025**

Municipal Corporation, Shimla	... Petitioner
Versus	
Ms. Geeta Devi	... Respondent

Coram***Hon'ble Mr. Justice Ajay Mohan Goel, Judge.*****Whether approved for reporting?¹**

For the petitioner	:	Mr. Vivek Sharma, Advocate.
For the respondent	:	Mr. Y.P. Sood, Advocate.

Ajay Mohan Goel, Judge (Oral)

By way of this petition, the petitioner has assailed judgment dated 04.07.2023, passed by the Court of learned District Judge, Shimla, H.P., in an appeal preferred by the respondent under Section 253 (2) of the Himachal Pradesh Municipal Corporation Act, 1994, in terms whereof, learned District Judge set aside order dated 26.11.2022, passed by the Commissioner, Municipal Corporation, Shimla.

2. Pursuant to a complaint received against the respondent herein that the respondent had carried out some unauthorized construction upon the Government land within jurisdiction of Municipal Corporation, Shimla, the proceedings were initiated against the petitioner under Section 254 (6) read with Sections 253

¹ Whether reporters of the local papers may be allowed to see the judgment?



and 242 of the Himachal Pradesh Municipal Corporation Act, 1994.

3. In terms of the proceedings initiated against the petitioner, the allegation against him was that he had constructed a 'Dhara' measuring $47.47m^2$ without prior approval of the Competent Authority by deviating from the Sanctioned Plan.

4. In terms of order dated 26.11.2022, the Commissioner, Municipal Corporation, Shimla ordered the demolition of the said unauthorized construction by the petitioner as also the disconnection of the water and electricity connections.

5. Feeling aggrieved, the respondent herein preferred an appeal under Section 253 (2) of the Himachal Pradesh Municipal Corporation Act, 1994.

6. In terms of judgment dated 04.07.2023, learned District Judge, Shimla, allowed the appeal by returning the following findings:-

"16. Apparently, the impugned order dated 26.11.2022 passed in Case No.551/AP/2020 has been passed by the Commissioner Municipal Corporation, Shimla under Sections 254(6) and 253 read with Section 242 of the Himachal Pradesh Municipal Corporation Act, 1994 with respect to the built up area of $47.47m^2$ careful perusal of the order further shows that the Commissioner Municipal Corporation Shimla accepted the factum of



sanction/approval of the structure over an area measuring 16.5m² in the name of Sh.Sarnu Ram (Predecessor-in-interest of the respondent). However, the impugned order was passed with respect to the entire built up area measuring 47.47m² without considering the legitimate structure over an area measuring 16.5m². Although, the respondent is alleging that existing two respondent/appellant the Dhara/Structure was constructed after obtaining sanction/approval with respect to the area measuring 16.5m² and area measuring 26.02m². However, there was no document on record whereby it can be inferred that the construction over area measuring 26.02m² was approved and sanctioned by the Municipal Corporation, Shimla.

17. Having considered the material on record, it appears that the impugned order dated 26.11.2022 passed by the Municipal Corporation, Shimla in Case No.551/AP/2020 titled as "Municipal Corporation Shimla through its Architect Planner Versus Geeta Devi" is not sustainable as it pertains to the entire built up area measuring 47.47m². Hence, the said order is not legally sustainable and has apparently caused miscarriage of the justice since the demolition pertains to the Dhara/Structure being used as residential premises by the respondent/appellant.

18. Therefore, the impugned order dated 26.11.2022 passed by the Commissioner Municipal Corporation, Shimla in case No.551/AP/2020 against the respondent/appellant is bad in the eyes of law and is



liable to be set aside.”

7. Having heard learned Counsel for the parties and having gone through the order passed by the Commissioner as well as the judgment passed by the learned District Judge, this Court is of the considered view that there is no infirmity in the judgment under challenge.

8. It is not much in dispute that some sanction was accorded in favour of the petitioner for construction of a structure. Whereas, as per the Corporation, the sanction was only for 16.50m², as per the respondent the same was for a larger area. Fact of the matter remains that the notice which was issued by the Corporation to the respondent herein encompass is in it the area qua which even as per the Corporation there was permission in favour of the respondent to carry out the necessary construction. This is exactly what has been held by the learned District Judge, who in his judgment returned the findings that the impugned order passed by the Commissioner, Municipal Corporation, Shimla was not sustainable as it pertained to the entire built up area rather than restricting itself to an area which as per the Corporation was unauthorizedly constructed by the respondent.

9. Accordingly, present petition is dismissed by upholding the order passed by the learned District Judge, Shimla, but with



liberty to the petitioner-Corporation to proceed against the respondent with regard to the alleged unauthorized construction carried out by him in accordance with law. Interim order, if any, stands vacated. Pending miscellaneous application(s), if any also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

November 24, 2025
(Rishi)