



CGHC010105922017

2026:CGHC:44108

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CR No. 119 of 2017**

Arun Kumar Dubey S/o Late Ravishankar Dubey, Aged About 40 Years Sarwarakar Bhagirathi Dubey Mandir, Nayapara, Raipur, Tahsil And District Raipur, Chhattisgarh Plaintiff, Chhattisgarh

... Applicant**versus**

1 - Indira Barbudhe Wd/o Late Nandev Barbudhe, R/o Behind Hanuman Mandir, Telipara, Gol Bazar Ward, Raipur, Tahsil And District Raipur, Chhattisgarh, Chhattisgarh

2 - Manish Barbudhe S/o Late Namdev Barbudhe, R/o Behind Hanuman Mandir, Telipara, Gol Bazar Ward, Raipur, Tahsil And District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

3 - Nimish Barbudhe S/o Late Namdev Barbudhe, R/o Behind Hanuman Mandir, Telipara, Gol Bazar Ward, Raipur, Tahsil And District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

4 - Vinay Barbudhe S/o Late Namdev Barbudhe, R/o Behind Hanuman Mandir, Telipara, Gol Bazar Ward, Raipur, Tahsil And District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

5 - Municipal Corporation Raipur, Through Commissioner, Municipal Corporation, Raipur, Tahsil And District Raipur, Chhattisgarh Defendants, District : Raipur, Chhattisgarh

... Respondent(s)

For Applicant : Mr. Risikant Mahobia, Advocate

For Respondent No. 5 : Mr. H. B. Agrawal, Sr. Advocate assisted by Ms. Preeti Yadav, Advocate

For Respondent No. 1 to 4 : None

Hon'ble Shri Justice Sachin Singh Rajput
Order On Board

12.10.2026

This civil revision under Section 392 of the Municipal Corporation Act, 1956 (for short Act of 1956) read with section 115 of the Civil Procedure Code, 1908 (for short CPC) has been filed by the applicant assailing the legality, correctness and judicial propriety of the order dated 11.04.2017 by the VII Additional District Judge, Raipur, District- Raipur (C.G.) (for short 'learned Trial

Court') in Civil MJC No. 15/2012. By the impugned order, the application filed by the applicant under Section 307(5) of the Act of 1956 was dismissed.

2. Facts in a nutshell are that applicant has filed an application under Section 307(5) of the Act of 1956 interalia pleading that he is a Sarwarakar of Bhagirathi Dubey Mandir, Nayapara, Raipur and is responsible for the management and maintenance of the temple property. He further pleaded that behind the temple lies the house of original respondent No.1 with a door opening towards a passage connecting the temple to the main road. Original respondent No. 1 allegedly reconstructed his house without obtaining the requisite building permission from respondent No. 5/Municipal Corporation, Raipur and raised construction in front of the said door thereby obstructing access to the door and the passage. The applicant further pleaded that despite his objection to the unauthorised construction, original respondent No. 1 quarrelled with and abused him. Upon seeking information under the Right to Information Act, the applicant was informed that original respondent No. 1 had undertaken construction without the requisite permission. Respondent No. 5 had issued notices dated 23.12.2006 and 29.12.2006 directing original respondent No. 1 to stop the unauthorised construction, however, the construction continued. The applicant thereafter instituted Civil Suit No. 369A/2006 before the Fifth Civil Judge, Raipur seeking permanent injunction along with an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908. Upon dismissal of the said application, the applicant approached this Court by way of a writ petition, wherein he was directed to avail the remedy under Section 307(5) of the Act, 1956. It is further pleaded that despite issuance of notices under Sections 293(1) and (2), 302 and 307(2)(a) of the Act of 1956, respondent No. 5 has taken no effective steps to remove the unauthorised construction. Accordingly, the applicant has sought removal of the

construction raised by original respondent No. 1 without obtaining the requisite building permission. Thus, the application was filed.

2. During the pendency of the application, original respondent No. 1 has passed away and his legal representatives were substituted on record.

3. Original respondent No. 1 filed the written statement and pleaded that he had submitted all requisite documents to respondent No. 5/Municipal Corporation for obtaining building permission and as no decision regarding sanction of the building plan had been communicated to him, the construction was deemed to have been sanctioned under the Act of 1956. He further denied that the door and passage situated behind the temple had been obstructed and prayed for dismissal of the application.

4. Respondent No. 5/Municipal Corporation filed its written statement and pleaded that notices had been issued to original respondent No. 1 and that appropriate action for removal of the unauthorised construction would be taken in accordance with law.

5. Upon consideration of the pleadings and submissions of the parties, the learned trial Court dismissed the application, giving rise to the present civil revision.

6. Learned counsel for the applicant submits that the learned trial Court committed manifest illegality in dismissing the application without properly appreciating the nature of the dispute and the scope of proceedings under Section 307(5) of the Act of 1956. He submits that the earlier proceedings and the proceedings under the aforesaid provision were distinct in nature, and, therefore, the learned trial Court erred in rejecting the application on the ground of parallel proceedings. He submits that when there is admission on the part of respondent No. 5/municipal corporation that there is an illegal construction, the application

may be allowed. He placed reliance of the judgment of this Court in case of **The Nagar Palika Nigam Bilaspur Vs. Ram Sahay Verma** passed in **Civil Revision No. 132/2015, order dated 24.06.2016.**

7. Learned counsel appearing for respondent No. 5/Municipal Corporation submits that the Corporation shall abide by the orders passed by this Court.

8. I have heard learned counsel for the parties and perused the document appended with the civil revision.

9. A perusal of the impugned order reveals that the applicant had also instituted Civil Suit No. 43-A/2011 seeking substantially the same relief which was dismissed by the Court of the 5th Civil Judge, Raipur on 28.01.2016. The appeal preferred against the said judgment registered as Civil Appeal No. 21-A/2016 was pending when the learned trial Court considered the present application. It has been submitted on behalf of respondent No. 5 that the said appeal has also subsequently been dismissed. Thus, the record indicates that the applicant had pursued the same relief through civil proceedings before invoking the remedy under Section 307(5) of the Act of 1956. The learned trial Court has also observed that the applicant ought to have approached the competent appellate committee of the Municipal Corporation, Raipur. Having regard to the aforesaid circumstances and the findings recorded by the learned Court below, this Court finds no sufficient ground to conclude that the impugned order suffers from any jurisdictional error or material illegality warranting interference in exercise of revisional jurisdiction under Section 115 of the CPC. Accordingly, the impugned order does not call for interference by this Court.

10. Consequently, civil revision fails and is hereby **dismissed. Sd/-**

(Sachin Singh Rajput)
Judge

H.ANSARI