

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.17258 of 2026
Date of Decision: 30.9.2026

Prem Prakash

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondent

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?

For the Petitioner: Mr. Nimish Gupta, Advocate.

For the Respondent: Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General and Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General, for the State.
Mr. Mukul Sood, Advocate, for respondent No.2.
Mr. Rajesh Kashyap, Advocate, for respondent No.3.

Sandeep Sharma, J. *(Oral)*

Being aggrieved and dissatisfied with the order dated 25.09.2026 issued under the signatures of the Commissioner, Municipal Corporation, Dharamshala, whereby the aforesaid authority, while directing the petitioner to demolish the unauthorized construction within a period of two days, has also sent communication to the electricity department and IPH department for disconnection of electricity and water connection, the petitioner has approached this Court in the instant proceedings filed under Article 226 of the Constitution of India, praying therein for the following main reliefs:

“(i) Issue a writ of certiorari quashing and setting aside the Notice cum Order dated 25.09.2026 (No. DMC-Engg (F)(U/C)6-01/2025-5621-27) issued by Respondent No. 2 directing vacation of the building within two days and the letter dated 25.09.2026 (No. DMC-Engg (F)(U/C)6-01/2025-5621-23) seeking disconnection of electricity and water connections;

(ii) Issue a writ of mandamus / prohibition restraining Respondent No. 2 and all other Respondents from taking any coercive steps, including disconnection of electricity/water or demolition of any portion of the petitioner’s building bearing H.No. 457, Ward No. 5, Khaniyara Road / Near Government High School, Tikka Gamru, Dharamshala, during the pendency of the statutory appeal (Civil Misc. Application No. 620/2026) before the Additional District Judge-II / District Judge, Kangra at Dharamshala and for a period of four weeks thereafter;

(iii) Declare that the order dated 06.04.2026 has not attained finality and that all consequential actions based on the incorrect premise of finality are illegal and non est;”

2. Having regard to the nature of prayer and order proposed to be passed, this Court sees no necessity to call for a reply from the respondents, who are otherwise represented by Mr. Anish Banshtu, learned Deputy Advocate General and Mr. Mukul Sood, learned Standing Counsel appearing for Municipal Corporation, Dharamshala.

3. Precisely, the facts of the case, as emerge from the pleadings as well as other material adduced on record by respective parties, are that respondent No. 5 Ms. Laxmi Devi, who was otherwise tenant of the

petitioner, lodged a complaint with Municipal Corporation, Dharamshala, alleging therein that the petitioner has raised unauthorized construction.

4. Taking cognizance of the complaint filed by respondent No. 5, Municipal Corporation, Dharamshala issued notice to the petitioner to explain as to how, without there being any sanction accorded by the competent authority, construction has been raised. Since no plausible explanation ever came to be rendered on record at the behest of the petitioner, respondent No.2-Municipal Corporation, Dharamshala passed order dated 06.04.2026 (Annexure P-2), thereby ordering demolition of the unauthorized structure.

5. Being aggrieved and dissatisfied with the aforesaid order of demolition, petitioner filed an appeal bearing Civil Misc. Application No. 620 of 2026 under Section 253(2) of the Himachal Pradesh Municipal Corporation Act, 1994 in the Court of learned District Judge, Kangra at Dharamshala, but since there was a delay in lodging the appellate proceedings, petitioner also filed an application under Section 5 of the Limitation Act. Till the time the application for condonation of delay is not decided by the learned District Judge, Kangra at Dharamshala, prayer, if any, made on behalf of the petitioner for interim stay, cannot be considered.

6. Though Municipal Corporation, Dharamshala, having taken note of the filing of the appeal, as detailed above, did not proceed further to comply with the order dated 27/06.04.2026 (Annexure P-2), but respondent No. 5/complainant approached this Court by way of CWP No. 14306 of 2026, titled *Laxmi Devi v. State of Himachal Pradesh and others*. Coordinate Bench of this Court, vide judgment dated 20.08.2026 (Annexure P-6), directed that since the order dated 06.04.2026 passed by the Commissioner had attained finality, respondent-Corporation shall take appropriate steps for demolition of the unauthorized construction without any notice. After passing of the aforesaid judgment, communications dated 25.09.2026, which are impugned in the instant proceedings, came to be issued. In the aforesaid background, petitioner has approached this Court in the instant proceedings, praying therein to direct the Municipal Corporation, Dharamshala, to keep the demolition proceedings in abeyance till the disposal of the appeal filed by the petitioner in the Court of learned District Judge, Kangra at Dharamshala.

7. While fairly admitting factum with regard to filing of the appeal against the order dated 06.04.2026 passed by the Commissioner, Municipal Corporation, Dharamshala, Mr. Mukul Sood, learned counsel representing the respondent-Corporation, states that since the Coordinate Bench of this

Court, vide judgment dated 20.08.2026 passed in CWP No. 14306 of 2026, had directed the Municipal Corporation, Dharamshala, to comply with the order dated 06.04.2026, respondent Corporation had no option but to issue communications dated 25.09.2026, which are laid challenge in the instant proceedings. Mr. Mukul Sood further states that in case this Court directs the respondent Corporation to keep the communications dated 25.09.2026 in abeyance till further orders, the respondent Corporation shall have no objection, however having carefully perused judgment passed in CWP No. 14306 of 2026, there appears to be merit in the contention of Mr. Mukul Sood, learned counsel for the respondent-Corporation that petitioner has raised unauthorized construction without there being any approved maps, but once it is not in dispute that the petitioner has already filed an appeal in the Court of learned District Judge, Kangra at Dharamshala against the order dated 06.04.2026 and therein, prayer for grant of interim stay has not been considered till date on account of delay in filing the appeal, this Court, without going into the merits of the case, deems it fit to dispose of the same with a direction to the learned District Judge, Kangra at Dharamshala to ensure that the application under Section 5 of the Limitation Act along with the appeal filed by the petitioner is decided on or

before the next date i.e. 01.10.2026, in accordance with law. Ordered accordingly.

8. Needless to say, in the event of the delay being condoned, prayer, if any, made on behalf of the petitioner to pass an interim order shall also be considered in accordance with law, but till then, communications dated 25.09.2026 laid challenge in the instant petition shall not be given effect to.

9. It is further clarified that further proceedings qua demolition of the unauthorized construction shall be governed by the orders passed by the learned District Judge, Kangra at Dharamshala in the appeal because bare perusal of the judgment dated 20.08.2026 clearly reveals that at the time of passing of the said judgment, the appeal laying therein challenge to the order dated 06.04.2026 passed by the Commissioner was not filed, but once such appeal has been filed, further proceedings shall be governed by those proceedings. Pending applications, if any, stand disposed of accordingly.

September 30, 2026
(manjit)

**(Sandeep Sharma),
Judge**