



2026:UHC:937-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI MANOJ KUMAR GUPTA, C.J.

AND

HON'BLE SRI JUSTICE SUBHASH UPADHYAY, J.

16th February, 2026

Special Appeal No. 12 of 2026

Smt. Veena and another -----Appellants

Versus

District Magistrate, Chamoli and others
-----Respondents

Presence:-

Shri Yashasawi Shah, learned counsel for the appellants through V.C.

Mr. Gajendra Trtipathi, learned Standing Counsel for the State.

Mr. B.S.Negi, learned counsel for the respondent no.2.

JUDGMENT: (per Manoj Kumar Gupta, C.J.)

1. The present intra court appeal is directed against the order of learned Single Judge dated 09.12.2025, whereby WPMS No. 3338 of 2025 filed by the appellants complaining that encroachment had been made by respondents no. 4 & 5 over a public drain by constructing a boundary wall and a tin-shade resulting in sewage backflow, road overflow, and damage their building has been dismissed observing that it is a private dispute and cannot be agitated under Article 226 of the Constitution.



2. Learned counsel for the appellants has invited our attention towards notice issued by the authorized officer, Municipal Corporation, Gopeshwar, Chamoli to respondent no.4 requiring him to remove the boundary wall as it was constructed over a public drain. Another notice to the same effect seems to have been issued earlier on 12th June, 2023. There is also on record an inter-departmental communication dated 23rd February, 2024, by S.D.M., Chamoli, addressed to District Magistrate, Chamoli, wherein also it is stated that respondent no. 4 had constructed a boundary wall over public drain and proceedings are pending for removal of the same. Learned counsel for the appellants has also invited our attention towards another inter departmental communication by Junior Engineer, Gramin Nirman Vibhag Prkhand Chamoli dated 11.10.2023 addressed to the Joint Secretary, Local Development Authority, Chamoli, in which, it is stated that proceedings under Section 26(A) of the U.P. Urban Planning and Development, Act 1973 have been proposed against the private respondents.

3. Also on record, is the joint inspection report by the Tehsildar Chamoli, Executive Engineer, Nagar



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Palika Parishad, Gopershwar, Junior Engineer Local Development Authority and Revenue Inspector, Chamoli in which, it is stated that notice has already been issued to the private respondents for removal of encroachment and proceedings are pending before the Joint Secretary, Local Development Authority, District Chamoli.

4. On query, learned State Counsel states that the proceedings are still pending and the same would be taken to its logical conclusion within six weeks.

5. Having regard to the submissions, we are of the opinion that since proceedings which have already been initiated against the private respondents for removal of alleged illegal encroachment the same should be taken to their logical conclusion expeditiously.

6. Accordingly, the present Special Appeal is disposed of with direction to respondents no. 2 & 3 to conclude the proceedings stated to be pending before it within six weeks from the date of communication of the instant order, after due notice and appropriate opportunity of hearing to the private respondents.



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7. Accordingly the order of learned Single Judge to the extent stated above would stand modified.

8. Pending application, if any, also stands disposed of.

(MANOJ KUMAR GUPTA, C.J.)

(SUBHASH UPADHYAY, J.)

Dated: 16.02.2026

Kaushal