CGHC010170142026 2026:CGHC:43552

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

RAVVA UTTEJ KUMAR RAJU Digitally signed by RAVVA UTTEJ KUMAR RAJU Date: 2026.10.09 16:23:28 +0530

WPC No. 2216 of 2026

Order Reserved on 23.07.2026

Order Passed on 08.10.2026

1 - Manish Kumar Agrawal S/o Shri Shankarlal Agrawal, aged About 56 Years R/o 30/54 Agrawal Kuti, Subhash Nagar, Gondpara, Bilaspur, (C.G.)

2 - Prashant Mishra S/o Shri N.K. Mishra Aged About 46 Years R/o Ward No. 30, Nearby Kamal Lodge, Khoa Mandi, Gondpara, Bilaspur (C.G.)

... Petitioners

Versus

1 - State of Chhattisgarh Through The Secretary Department Of Urban Administration And Development, Mantralaya, Mahanadi Bhawan, Capital Complex, Atal Nagar, Nava Raipur, District- Raipur, Chhattisgarh.

2 - The Collector, Bilaspur District- Bilaspur, Chhattisgarh.

3 - The Municipal Corporation of Bilaspur Through The Municipal Commissioner Municipal Corporation Bilaspur, Vikas Bhawan, Nehru Chowk, Bilaspur, District- Bilaspur, Chhattisgarh.

4 - The Commissioner, Municipal Corporation Bilaspur, Vikas Bhawan Nehru Chowk, Bilaspur, District- Bilaspur, Chhattisgarh.

5 - The Zone Commissioner, Zone 5 Municipal Corporation Bilaspur, Vikas Bhawan Nehru Chowk, Bilaspur, District- Bilaspur, Chhattisgarh.

6 - The Building Officer, Municipal Corporation, Bilaspur, Vikas Bhawan Nehru Chowk, Bilaspur, Chhattisgarh.

7 - Sanjay Dubey S/o Bhagwat Prasad Dubey Aged About 61 Years R/o Vinoba Nagar, District- Bilaspur, Chhattisgarh.

... Respondents

(Cause title is downloaded from CIS Periphery.)

For Petitioners	**:**	Mr. Harshmander Rastogi and Mr. Ashish Pandey, Advocates.
For State	**:**	Mr. Shobhit Mishra, Dy. G.A.
For Respondents No. 3 to 6	**:**	Mr. A.S. Kachhawaha, Advocate.
For Respondent No. 7	**:**	Mr. Manoj Paranjpe, Sr. Advocate along with Mr. Mayank Gupta, Advocate.

Hon'ble Mr. Justice Amitendra Kishore Prasad

C.A.V.Order

1. The petitioners have preferred this petition seeking urgent intervention of this Court and to direct the Municipal Corporation and State authorities to consider and decide the representation submitted by the petitioner and to take strict action against the illegal construction raised at Ward No. 30, Gol Bazar, falling under Municipal Zone No. 05, Bilaspur (C.G.) by the private respondent Mr. Sanjay Dubey which is obstructing the way to the petitioners residents/ shops specially affecting adversely the petitioners in cases of emergency.

2. Brief facts of the case, as stated by the petitioners are residents of Gol Bazar, Bilaspur, Chhattisgarh, and are aggrieved by the

unauthorized and illegal construction being raised by the Private Respondent in Ward No. 30, Gol Bazar, upon/over the public passage, thereby causing serious obstruction to the common access of the residents of the locality. After a fire incident in the old structure of the private respondent, construction of a new structure was commenced without obtaining the requisite permission or sanction from the competent authority, resulting in encroachment upon the existing lane, which was earlier approximately 10–15 feet wide but has now been reduced to about 5–7 feet on account of the construction and dumping of building material. The said lane is used by nearly 100 residential families, including the petitioners, and the substantial reduction in its width has severely obstructed the movement of vehicles and rendered the passage of ambulances, fire tenders and other emergency vehicles practically impossible, thereby creating a serious threat to the safety and life of the residents. The petitioners initially approached the District Collector and the Municipal Commissioner, Bilaspur, bringing to their notice the commencement of construction without requisite permission. Acting upon the complaints, the Municipal Corporation initiated proceedings and the Zone Commissioner directed the Private Respondent to produce the requisite building permission, sanctioned map and land ownership documents. Despite the aforesaid proceedings, the unauthorized construction and encroachment continued, compelling the petitioners to again

approach the Collector, Bilaspur and request immediate action, particularly in view of the obstruction being caused to the public road and the inability of emergency vehicles to access the lane. Thereafter, the Building Officer issued a final notice to the Private Respondent, recording that his explanation was unsatisfactory and granting a further opportunity to explain the construction, failing which action under Section 307(3) of the Municipal Corporation Act, 1956, including removal/demolition of the unauthorized construction, was proposed. Despite the aforesaid notice and repeated complaints, no effective action was taken and the construction continued. On 23.02.2026, the Joint Collector, Bilaspur also initiated proceedings by calling upon the concerned authorities and the private respondent in connection with the complaints; however, the matter remained without any effective resolution. In the meantime, the private respondent challenged the final notice before this Court in W.P.(C) No. 828 of 2026, wherein vide order dated 27.02.2026, the petition was disposed of by granting liberty to the respondent No. 7 to submit an application under Section 308-A of the Municipal Corporation Act, 1956 for compounding of the offence of construction without permission, with a direction to the competent authorities to consider the same in accordance with law. Thereafter, although the Building Officer stated that action had been taken and that the construction had been stayed, the unauthorized construction, according to the petitioners, continued even thereafter. The petitioners therefore

again approached the concerned authorities in March, 2026, specifically pointing out the continued construction. Aggrieved thereby, the petitioners have approached this Court seeking following reliefs:-

> **"**10.1 That, this Hon'ble Court may kindly be pleased to writ/writs, order/orders, direction/directions directing the Respondent Municipal Corporation and State Authorities to take strict action against the illegal construction raised by the private Respondent in respect of the subjected property.
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> 10.2 That this Hon'ble Court may kindly be pleased to issue direction/directions to the respondent authorities to demolish the structure concerned, which is illegaly raised by the private respondent.
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> 10.3 That, this Hon'ble Court may kindly be pleased to grant any other relief(s), which is deemed fit and proper in the aforesaid facts and circumstances of the case."

3. Learned counsel for the petitioners submits that the contention raised by the respondent Municipal Corporation of Bilaspur (C.G.) claiming that the construction of the private respondent was stayed following the notice stands completely falsified by the contemporaneous photographs produced during the proceedings, which demonstrate that the illegal construction has now been fully completed and commercial shops have commenced operation during the pendency of this petition. It is further submitted that in blatant disregard of the specific directions issued by this Court vide order dated 27/02/2026 in WPC No. 828 of 2026, the private respondent has failed to submit any application for regularization till date. Finally, it is urged that the present writ petition does not

involve a private civil dispute between neighboring landowners; rather, it pertains to a gross encroachment upon public land by the private respondent coupled with the absolute failure of the Municipal Corporation to discharge its statutory obligations to remove such illegal encroachment. He next submits by placing reliance on the decision of Hon'ble High Court of Madhya Pradesh in the matter of ***Dilip Verma vs. vs Indore Municipal Corporation and Ors***. (Writ Petition 18510 of 2025) vide order dated 20.06.2025 has held that:-

> *"**3**. Counsel appearing for the respondents/Municipal Corporation has submitted that the petitioners have a remedy of preferring an application before the District Judge under Section 307 of the Municipal Corporation Act, 1956, however, learned counsel for the petitioners has relied upon the decision rendered by the Division Bench of this Court in the case of Sunil Jain vs. Indore Municipal Corporation and others reported as 2019 SCC Online MP 3846, wherein this Court has observed that even if the alternative remedy under Section 307 of the Act of 1956 is available, still the Municipal Corporation cannot shun its responsibility of taking appropriate action in case a building has been constructed in contravention of law.*
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> "***4***.Heard. On due consideration, this Court is inclined to dispose of this petition with a direction to the

respondents/Indore Municipal Corporation to take action, in accordance with law, in case any construction is found to be unauthorized and contrary to the sanctioned layout."

4. Learned counsel for the State/respondents No. 1 & 2 submits that the matter relates to dispute between the petitioners as well as the authorities of Municipal Corporation and private respondents, and as such the State is not a direct party from which relief has been claimed. The Municipal Corporation is required to redress the claim of the petitioner in accordance with law.

5. On the other hand, learned counsel appearing on behalf of respondents No. 3 to 6 submits that the present writ petition is not maintainable, as the dispute raised by the petitioners is essentially civil/private in nature and involves the rights of the parties in respect of the subject property. He further submits that the petitioners have an efficacious and adequate statutory remedy under Section 307(5) of the Municipal Corporation Act, 1956, and therefore, without availing such remedy, the petitioner ought not to invoke the extraordinary writ jurisdiction of this Court. He next submits that the present writ petition may kindly be dismissed on the ground of availability of an alternative statutory remedy, without entering into the merits of the private dispute between the parties.

6. Learned counsel for respondent No. 7 submits that the that the present writ petition is not maintainable in view of the efficacious statutory remedy available under Section 307(5) of the Chhattisgarh Municipal Corporation Act, 1956, which permits any person to approach the District Court against alleged illegal construction, as affirmed by the Full Bench in **Dilip Kaushal v. State of Madhya Pradesh**, reported in **2008 (3) MPLJ 591**. He further submits that the petitioners seek no relief for themselves and have raised disputed questions of fact arising out of a private property dispute, while suppressing material facts regarding the pending family dispute over the subject property. It is, therefore, submitted that the petitioners having failed to avail the said statutory remedy, as such present writ petition deserves to be dismissed.

7. Having heard learned counsel for the parties, upon perusal of the record it appears that the grievance of the petitioners is to the fact that the respondent No. 7 is raising construction unauthorizedly and contrary to the sanctioned layout then the Municipal Corporation should have taken action against the same. However, the Municipal Corporation is not taking action against respondent No. 7 and the respondent No. 7 is raising construction without there being any authority under law. Though the respondent No. 7 is categorically submitting that he is not raising construction against the layout etc. and in fact he is renovating the old construction and the allegation raised against the petitioners is

false and fabricated. The parties are having some subsisting dispute due to which the petitioner is trying to harass the respondent No 7. There is provision under the Municipal Corporation Act,196 to seek remedy in case the unauthorized construction is being raised by any of the party.

8. Section 307 of the Municipal Corporation Act, 1956- ***Power to require removal alteration of work not in conformity with byelaws or any scheme or any other requirement.-***

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> ***"5****. Nothing in this section shall affect the right of the Corporation or any other person to apply to the District Court for an injunction for the removal or alteration of any building on the ground that it contravenes any provision of this Act or the byelaws made thereunder, but if the building is one in respect of which plans have been deposited and the plans have been passed by the Commissioner, or notice that they have been rejected has not been given within the prescribed period after the deposit thereof, and if the work has been executed in accordance with the plans, the District Court on granting an injunction shall have power to order the Corporation to pay to the owner of the work such compensation as the District Court thinks just, but before making any such*

order the District Court cause the Commissioner if not a party to be joined as a party to the proceeding."

9. Where an efficacious alternative remedy is available, the extraordinary writ jurisdiction of this Court ought not to be invoked ordinarily. Recently, the Hon'ble Supreme Court, in the matter of ***Sujjal Vishwas Attavar and Anr. v. The State of Maharashtra and Others***, reported in **2026 SCC Online SC 798**, has held that where an efficacious remedy is available under the law, the parties should ordinarily be relegated to such remedy instead of entertaining a writ petition. The submission advanced by the petitioner that the Municipal Corporation cannot escape from its liability and is required to take necessary action against respondent No. 7 on the basis of the complaint made by the petitioners is also not tenable, as the petitioners can avail the appropriate remedy by filing an application before the competent authority/Court under Section 307 of the Municipal Corporation Act, 1956. The Division Bench of the Madhya Pradesh High Court, in ***Dilip Kaushal v. State of Madhya Pradesh and Others***, reported in **2008 (3) M.P.L.J. 591**, has considered this aspect and held that the locus of the person concerned is also required to be examined and that Section 307 can be invoked by any person, in addition to the Municipal Corporation, for approaching the District Court by seeking an injunction for alteration or removal of any building. In view of the aforesaid position, this Court is of the opinion that the present writ petition, as framed and filed, does not

warrant exercise of the extraordinary writ jurisdiction of this Court. The petitioners are, accordingly, relegated to avail the remedy available under Section 307 of the Municipal Corporation Act, 1956, before the competent authority/Court, in accordance with law.

10. With this observation and direction, this petition stands **disposed of.**

11. No order as to cost(s).

Sd/-

(Amitendra Kishore Prasad)

Judge

U.K. Raju

The date when the judgment is reserved	**The date when the judgment is pronounced**	**The date when the judgment is uploaded on the website**	
		Operative	Full
23.07.2026	08.10.2026.	--	09.10.2026