CGHC010436052026

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 1399 of 2026

Sanjay Singh Chauhan S/o R.S. Chauhan Aged About 58 Years R/o- Ward No.-40, Maharanapratapnagar Bilaspur Jila Bilaspur (C.G.)

... Petitioner(s)

versus

1 - Gireesh Pandey S/o Late Suraj Prasad Pandey Aged About 54 Years R/o- Quarter No. 01, Niralanagar,raja Hotel Ke Samne, Purana Bus Stand Bilaspur Jila Bilaspur (C.G.)

2 - Nagar Palik Nigam Dwara Aayukt Nagar Palik Nigam Bilaspur Jila Bilaspur (C.G.)

... Respondent(s)

(Cause title is taken from the CIS)

For Petitioner	:	Shri Abdul Wahab Khan, Advocate
For Respondents	:	Shri Pranjal Shukla, Advocate

Hon'ble Shri Justice Ravindra Kumar Agrawal

Order on Board

05.11.2026

1. Present is a Writ Petition filed by the petitioner against the impugned order dated 15.05.2026 passed by the learned 9th Civil Judge, Junior Division, Bilaspur in Civil Suit-A52 of 2026, whereby the application filed by the petitioner under Order 1 Rule 10 of the Code of Civil Procedure (CPC) has been rejected.

2. Learned counsel for the petitioner would submit that though the petitioner is neither plaintiff, nor defendant before the learned trial Court but he has filed application under Order 1 Rule 10 of the CPC for impleading himself as party

defendant in the civil suit. Before the learned trial Court, the respondent-1 filed a Civil Suit for permanent injunction regarding removal of alleged encroachment of plaintiff by the defendant Municipal Corporation. The said cause of action arose in favour of the plaintiff only on a complaint made by the present petitioner to the Municipal Corporation and when the Corporation is taking action against the plaintiff, he filed a Civil Suit. The petitioner is an affected party from the encroachment made by the plaintiff over the subject land, he filed an application for impleading himself to be a party defendant in the suit, so that an effective adjudication may be done in the case. The learned trial Court has rejected the application holding that petitioner is neither necessary nor proper party in the suit. The impugned order suffers from illegality and the same is liable to be set aside and the learned trial Court to be directed to implead him as party defendant in the suit.

3. On the other hand learned counsel for respondent-2 opposes the submissions made by learned counsel for the petitioner and would submit that the Municipal Corporation is defending its case in accordance with law and after considering the facts and circumstances of the case, the learned trial court has rejected the application filed by the petitioner. He would also submit that though the petitioner is the complainant and has made a complaint before the Corporation but in the suit filed by the plaintiff, he is neither necessary nor the proper party and on that ground alone, his application has been rejected by the learned trial court, which does not suffers from any illegality, or perversity.

4. Heard learned counsel for the parties and perused the documents annexed with the petition.

5. From perusal of order impugned, it transpires that the plaintiff, respondent-1, who is prosecuting a Civil Suit for permanent injunction against the action taken by the respondent-2, Municipal Corporation against removal of encroachment. It is alleged that the plaintiff's possession over the subject land is within his limit and he has not encroached over any part of the road or any other land. It also transpires that the plaintiffs have submitted that as per the approved town and country planning map, which was approved in the year 1962-64 he has not encroached any part of the land. It further transpires from the impugned order that the plaintiff is in possession of 3375 sft of land in which his house is situated and the Municipal Corporation is taking action against removal of encroachment, on the ground that without approved map, his construction is illegal. Since the defendant-Municipal Corporation is already taking care of his defence before the learned trial Court, even if the petitioner is the complainant, who made a complaint to the Municipal Corporation regarding the alleged encroachment, he cannot be said to be proper or necessary party in the present suit, which has been filed by the plaintiff for permanent injunction against the Municipal Corporation.

6. In the case of **Mumbai International Airport Private Limited v. Regency Convention Centre and Hotels Private Limited,** (2010) 7 SCC 417 it has been observed as under:

> "15. A "necessary party" is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court. If a "necessary party" is not impleaded, the suit itself is liable to be dismissed. A "proper party" is a party who, though not a necessary party, is a person whose presence

would enable the court to completely, effectively and adequately adjudicate upon all matters in dispute in the suit, though he need not be a person in favour of or against whom the decree is to be made. If a person is not found to be a proper or necessary party, the court has no jurisdiction to implead him, against the wishes of the plaintiff. ….."

7. Considering the submissions made by learned counsel for the parties, also considering the facts and circumstances of the case and the material available in the petition, this court finds that there is no jurisdictional error in the order impugned passed by the learned trial Court rejecting the application of the petitioner filed under order 1 Rule10 of the CPC.

8. Accordingly, present writ petition fails and it is hereby dismissed.

Sd/-
(Ravindra Kumar Agrawal)
JUDGE

padma