IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA

CMPMO No. 550 of 2026

Decided on: 2.11.2026

M.C. Shimla

... Petitioner

Versus

Kanwar Yoginder Singh & others

...Respondents

Coram
Hon'ble Mr. Justice Virender Singh, Judge
Whether approved for reporting?

For the Petitioner: Mr. Rahul Thakur, Advocate.

For the Respondents *:* Mr. Manish Gupta, Advocate.

Virender Singh, Judge (oral)

Petitioner-Municipal Corporation, Shimla has filed the present petition, under Article 227 of the Constitution of India, against order dated 02.06.2025 passed by the Court of learned Senior Civil Judge (1), Shimla, District Shimla, H.P. (hereinafter referred to as 'the Executing Court') in Execution Petition No. 40 of 2024.

2. By way of order dated 02.06.2025, the learned Execution Court has dismissed the application bearing CMA No. 2432 of 2024, which has been filed, under the

provisions of Order 1 Rule 10 of the CPC, for impleading Shimla Jal Prabandhan Nigam Limited (hereinafter referred to as, 'the SJPNL'), as party, in the above titled Execution Petition.

3. For the sake of convenience, parties to the lis, are hereinafter, referred to, in the same manner, in which, they were referred to, by the learned Executing Court.

4. Necessary facts, as borne out from the documents, annexed with the petition, may be summed up as under:

The Decree Holders/plaintiffs have filed a suit for permanent prohibitory injunction and mandatory injunction, against the Municipal Corporation, Shimla. The said suit was decreed vide judgment and decree dated 14.9.2011, by awarding the following relief to the plaintiffs:

> *"In view of my findings and discussions on the aforesaid issues, the suit of the plaintiff for permanent prohibitory injunction, as well as, mandatory injunction, is decreed with costs and defendant is restrained from throwing garbage or installing dustbin over the suit land. They are further directed by way of mandatory injunction to remove the sewerage and G.I. pipe lines passing through*

the part of the suit land, at their own costs. Decree sheet be prepared accordingly."

5. Thereafter, the Decree Holders have filed the Execution Petition, to which, the JD has filed the objections disclosing therein, that as per the notification dated 23.04.2018, a Company has been created under the Companies Act, under the name and style of 'Shimla Jal Prabandhan Nigam Limited' on 19.06.2018. The said company has been assigned the management of services of water and sewerage with resolution No. 1(i), dated 31.07.2018. The Company has been constituted for better management of water supply and proper upkeep of the sewerage, disposal and treatment of the plant. The entire record, pertaining to the management, lifting and distribution of water and sewerage treatment, has been handed over to the SJPNL.

6. In the said Execution Petition, an application Under Order 1 Rule 10 of the CPC, has been filed to implead the SJPNL. The said application has been dismissed, by the learned Executing Court vide order dated 02.06.2025.

7. The said order is being assailed by the Judgment Debtor, by way of present petition.

8. Heard.

9. The bone of contention of Shri Rahul Thakur, learned counsel, appearing for the petitioner, is the notification dated 31.08.2018. The same is reproduced as under:

> *Consequent upon the approval of the Govt. received vide Additional Chief Secretary (UD) to the Govt. of Himachal Pradesh letter No: UD-C(10) 3/2017 loose dated 23.04.2018 and in pursuant to the approval of the General House of the Corporation, a Company was created under the Companies Act in the name and style of Shimla Jal Prabandhan Nigam Limited on 19.6.2018. Further the General House vide resolution number 1(1) dated 31.07.2018 decided to assign/delegate the Water and Sewerage Services to the said Company in terms of Section 405(2) of the H.P. Municipal Corporation Act, 1994.*
>
> *Now, therefore, in pursuance to the approval of the Govt. conveyed vide their letter number UD-C(10)3/2017 loose dated 23.04.2018, the approval of the General House of the Municipal Corporation Shimla and further the approval conveyed by the Govt. ide letter number UD-C(10)3/2017 loose dated 31.08.2018 and in exercise of powers conferred vide section 405(2). of the HP Municipal Corporation Act 1994, the entire control of the Greater Shimla Water Supply and Sewerage Circle, Municipal Corporation, Shimla is hereby entrusted and assigned to*

the newly created Company known as Shimla Jal Prabandhan Nigam Ltd. alongwith its assets and present & future liabilities on the following terms and conditions :-

1. The newly created Company i.e its officers/officials shall now be solely responsible for maintaining quality and quantity of water for distribution to the residents of the Town/consumers within the Corporation limits and shall take adequate measures in this regard including proper testing of water from time to time. The Company shall ensure equitable distribution of water in terms of various directions issued by the Hon'ble High Court in CWPIL No. 79/2018. Further, the Company shall also ensure proper upkeep of Sewerage Treatment Plant and its network as per the mandate of the Act, Rules, Guidelines and directions issued by the Hon'ble Court/Tribunal and other Statutory Authorities.

2). The services of all the staff presently working on regular/daily wages/contract/part time in Greater Shimla Water Supply and Sewerage Circle of Municipal Corporation, Shimla shall stand transferred on secondment basis to the SJPN Ltd. (newly created Company) and shall be gradually absorbed in the Company in a phased manner. They shall be governed by the Rules and Regulations of the Company.

3) The salary, wages and other admissible benefits from the date of transfer of the services of the employees working in Greater Shimla Water Supply and Sewerage Circle of Municipal Corporation, Shimla shall be paid/released by the SJPN Ltd. forthwith.

4) The ACRs of the Officers in the SJPN Ltd. shall be reported/reviewed as per the following channels:

Designation	*Reporting*	*Reviewing*	*Accepting*

	Officer	*Officer*	*Officer*
Junior	*Assistant*	*Executive*	*MD-cum-*
Engineer	*Engineer*	*Engineer*	*CEO*
Executive	*MD-cum-*	*Commissione*	*ACS (UD)*
Engineer	*CEO*	*r MC Shimla*	
MD-cum-CEO	*ACS (UD)*	*Chairman*	
		BOD (CS)	

5) Quarterly reports with regard to the works/steps taken by the Company shall be submitted to Commissioner, Municipal Corporation, Shimla and further MD-cum-CEO, SJPNL shall thereafter apprise the General House of the Corporation.

6) The developmental works as proposed by the Commissioner in consultation with the representatives of the Corporation shall be given top priority by the Officers of SJPN Limited.

7) Municipal Corporation, Shimla shall be at liberty to take up the issue with the State Government for indemnifying it to the extent of annual loss of revenue on account of formation of SJPNL.

8) Shimla in the share capital of SIPNL may vary from time to time as and The present percentage of 51% shareholding of Municipal Corporation, when the Company expands its activities in the State (as reflected in the Cabinet Note).

9) The Executive Engineers heading the Production, Distribution and Sewerage Division shall attend the meetings of the Corporation House and other meetings as convened by the Commissioner, Municipal Corporation, Shimla from time to time. Further, they shall ensure

compliance of the lawful directions given by the Municipal Corporation, Authorities to them.

10) The Executive Engineers shall also place status of grievances and redressal thereof in the monthly meeting of the Corporation.

11) The Managing Director-cum-Chief Executive Officer, SJPN Limited shall act as an Appellate Authority under the RTI Act in respect of appeals pertaining to Water Supply and Sewerage.

12) Collector of revenue shall now be the sole responsibility of the SJPN Limited.

All the assets available with Municipal Corporation, Shimla be transferred to SJPN Ltd. by the Corporation after making proper entry of handing over and taking over in the record of the Corporation.

14) The functionaries of SJPN Limited shall be bound to implement the provisions of Chapter XII of the H.P. Municipal Corporation Act, 1994 except Drainage System in letter and spirit and shall ensure necessary statutory compliances of the same as required under the said Chapter.

This supersedes the notification of even number dated 23.08.2018."

10. On the basis of the said notification, it has been prayed that the Shimla Jal Prabandhan Nigam Limited is not only necessary, but, proper party in the execution petition, and as such, a prayer has been made to set aside the order passed by the learned Executing Court

dated 02.06.2025, by virtue of which, the application, under Order 1 Rule 10 of the CPC, has been dismissed.

11. The judgment and decree has been passed against the Municipal Corporation, Shimla and the execution petition has also been filed against the JD.

12. The learned counsel appearing for the Decree Holders has drawn the attention of this Court towards condition No. 5 and 8 of the notification dated 31.08.2018 and has rightly argued that the SJPNL does not fall within the definition of 'necessary party' nor the 'proper party', for the just adjudication of the case.

13. The Executing Court is bound to execute the decree, against the JD and the scope of the execution, cannot be enlarged by impleading SJPNL as party to the execution petition.

14. In view of the above, the JD has failed to point out any jurisdictional error, in the order passed by the learned Executing Court on 02.06.2025.

15. Consequently the present petition is dismissed, so also the pending application(s), if any.

16. Any of the observations, made hereinabove, shall not be taken as an expression of opinion, on the merits of the case, as these observations, are confined, only, to the disposal of the present application.

(Virender Singh)
Judge

2.11.2026
Kalpana