SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	UKHC010037592021 2026:UHC:9915 COURT'S OR JUDGES'S ORDERS
	30.10.2026		WPMS No. 679 of 2021 **Mamta Gehlot @Mamta** **.....Petitioner** **Vs.** **District Magistrate, Udham Singh Nagar & others** **....Respondents** **Hon'ble Manoj Kumar Tiwari, A.C.J.** 1. Mr. Umanshu Singh Jolly, learned counsel holding brief of Mr. Aditya Singh, learned counsel for the petitioner. 2. Mr. Gajendra Tripathi, learned Standing Counsel for the State- respondent nos.1 and 2. 3. Mr. Deepak Belwal, learned counsel holding brief of Mr. A.M. Saklani, learned counsel for respondent nos.3 and 4. 4. By means of this writ petition, petitioner has sought the following reliefs:- *"i) Issue a writ, order or direction, in the nature of mandamus commanding the respondent nos.3 & 4 not to encroach upon the land of the petitioner forming part of Khasra no.300 admeasuring 0.300 hectares situated at village Amritpur, Tahsil Jaspur, District Udham Singh Nagar.* *ii) Issue a writ, order or direction, in the nature of mandamus commanding the respondents to release the construction material which was used by the petitioner for raising boundary wall over her land."* 5. In sum and substance, petitioner has sought injunction against Municipal Board, Jaspur and Executive Office, Municipal Board, Jaspur, District Udham Singh Nagar. 6. The averment made in Paragraph Nos.20, 21 and 22 of writ petition are reproduced as under:- "*20) That it is submitted that the act of the Municipal Board Jaspur encroaching upon the land of the petitioner is a clear violation of the rights of the petitioner as provided under Article 300-A of the Constitution of India.* *21) That at this juncture it is relevant to mention herein that so far as the right of the petitioner to prefer a private law remedy is concerned, the petitioner has already approached the court of Civil Judge (J.D.) Kashipur by way of O.S. No.157/2012.* *22) That the learned trial court on an application so moved by the petitioner under Order 39 Rule 1 & 2 seeking interim injunction is concerned, an order has come to be passed where it has been*

directed that the Municipal Board Jaspur may not encroach upon the land of the petitioner yet with utter disregard to the order of the trial court the Municipal Board Jaspur is trying to encroach upon the land of the petitioner for which although the petitioner has approached the courts of appropriate jurisdiction having an alternative remedy, yet it would not be wrong to state that such alternative remedy is not efficacious as despite orders passed by the court of learned Civil (J.D.), Kashipur actions as those taken by the Municipal Board Jaspur on 1.3.2021 looms large for which the petitioner is preferring the present writ petition."

7. Since petitioner admits that she has filed Civil Suit and order of injunction was also passed in her favour, therefore, merely because defendants to the injunction Suit are trying to encroach upon the land of petitioner, would not create a right in favour of petitioner to by-pass the remedy of Civil Court and approach Constitutional Court. If order of temporary injunction is violated by defendants to the Suit, then petitioner has remedy of moving appropriate application under Order 39 Rule 2A of Code of Civil Procedure.

8. Having regard to the facts of the case, there is no scope of interference. Accordingly, writ petition fails and is dismissed.

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

(Manoj Kumar Tiwari, A.C.J.)
30.10.2026

NISHANT

NISHANT KUMAR