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WP-37122-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL MISHRA

ON THE 27th OF JANUARY, 2026WRIT PETITION No. 37122 of 2025*SUBHASH CHAND JAISWAL**Versus**MUNICIPAL CORPORATION AND OTHERS*

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Appearance:

*Shri Sanjay Agrawal - Senior Advocate with Shri Ram Prasad Khare
and Ms. Ankita Singh Parihar - Advocates for the petitioner.*

*Shri V.S. Choudhary and Shri Priyan Shrivastava - Advocates for
respondent No.1.*

*Shri Sanjay Ram Tamrakar - Senior Advocate with Shri Brajesh
Kumar Dubey - Advocate for respondent No.2.*

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ORDER

Heard on I.A. No.198/2026, an application for vacating stay granted on 17/12/2025 and also on the merits of the matter.

2 . Learned counsel appearing for respondent No.2 by filing the application for vacating stay has contended that the Writ Petition is filed with suppression of material facts as the petitioner has already preferred a Civil Suit being RCSA No.659/2025 for permanent injunction with respect to property in question seeking the relief that the respondent be restrained from raising any construction on the property in question and the construction which has been raised should be removed and vacant possession be handed



over to the petitioner. In the said Civil Suit, an application under Order 7 Rule 11 read with Section 151 of CPC was filed by the respondents. On the said application, the Trial Court passed an order on 12/08/2025 partly allowing the application under Order 7 Rule 11 of CPC directing for payment of Court fees in accordance with the relief which has been claimed in the Civil Suit. Against the said order, petitioner preferred a Miscellaneous Petition being M.P. No.4792/2025 before this Court in the name of **Subhash Chand Jaiswal Vs. Anant Shri Vibhushit Jagat Guru Shankaracharya Jyotish**, on which vide order dated 04/09/2025, a prayer for listing of the matter in the next week was made. No notices have been issued in the said matter and the said Miscellaneous Petition is still pending. Thereafter petitioner has also filed an application under Order 6 Rule 17 of CPC seeking amendment in the plaint and directing for deleting the relief with respect to vacating of the land and handing the vacant possession to the petitioner. Now this petition has been filed by suppressing the said information from this Court regarding filing of Miscellaneous Petition.

3. It is argued by learned counsel for respondent No.2 that now this petition has been filed seeking a mandamus directing respondent No.1 to stop the construction carried out by respondent No.2 on the land bearing survey No.153/1 and further direct to demolish the construction so raised by respondent No.2 on the land in question. It is contended that the land involved in the present petition as well as in the Civil Suit are one and the same. The petitioner cannot run parallel proceedings for redressal of his grievances. Along with the Civil Suit, an application seeking temporary



injunction was also filed. Petitioner cannot claim the similar relief by filing this petition amounting to initiation of parallel proceedings. Therefore, an application for vacating stay is filed. Respondent No.2 has also filed a short reply and raised an objection with respect to maintainability of this Writ Petition.

4 . Learned counsel appearing for the petitioner has vehemently opposed the contentions and submitted that the relief claimed in the Writ Petition is entirely different from what has been claimed in the Civil Suit. It is his case that the construction on the property in question has been raised contrary to the layout plan. Respondent No.2 had no right, title or interest over the property in question and without any documents, respondent No.2 has started raising construction over the property in question, for which, petitioner has made a complaint to the competent Authority i.e. Municipal Corporation and Town & Country Planning stating therein that respondent No.2 has not obtained any permission to raise construction and his application seeking permission to raise construction has been refused by the Joint Director, TNCP, but despite of the same he has started raising construction on the property in question. Therefore, subject matter of the Civil Suit and the Writ Petition is entirely different. Therefore, this petition is maintainable.

5. Heard learned counsel for the parties and perused the record.

6. From the perusal of record, it is seen that the relief claimed in the Writ Petition is as under:-

"7.I. That, the Hon'ble Court may kindly be pleased to issue a writ in the nature of *mandamus*, thereby, direct the respondent No.1 to stop the construction carried on



by the respondent No.2 on the land bearing Survey No.153/1, Laxmipur, Jabalpur where the Town & Country Planning specifically refused to make any construction and the respondent No.1 be further directed to demolish the construction so raised by the respondent No.2 on the land in question bearing Survey No.153/1 — area 5,400 Sq.ft, Laxmipur, Jabalpur, in the interest of justice."

7. The aforesaid relief is claimed on the ground that there is no permission by the competent Authority to respondent No.2 to raise construction on the property in question. The application seeking sanction was refused. The relief which has been claimed in the Civil Suit is as under:-

"अतः माननीय न्यायालय से प्रार्थना है कि वादी के पक्ष में प्रतिवादी के विरुद्ध इस आशय की स्थाई निषेधाज्ञा की आज्ञा पारित करने कृपा करें की प्रतिवादी वादग्रस्त स्थान ख.नं. 153/1 (एक सौ तेरपन बटा एक) ऐरिया 5400 (पांच हजार चार सौ) वर्गफुट मौजा लख्मीपुर, तहसील व जिला जबलपुर जिसे वाद नक्शे में लाल रंग से एवं अ, ब, स, द अक्षरों से दर्शाया गया है उस पर किसी भी प्रकार से कोई निर्माण कार्य नहीं करें एवं जो निर्माण दावा प्रस्तुत करने के उपरान्त किया जाता है उसे हटवाकर उसका उसे पूर्वोक्त स्थिति में प्रदान करें अर्थात् भूमि को खाली करके एवं वादी को शांतिपूर्ण कब्जा प्रदान करें और प्रतिवादी अपने प्रतिनिधि के माध्यम से बेदखल नहीं करे।"

8. The reliefs claimed in this Writ Petition as well as in the Civil Suit are one and the same. The contents of the plaint also reflect that the Civil Suit is filed on the ground that there is no permission for raising any construction on the property in question by the competent Authority to the respondent.

9. Petitioner though has placed the material before this Court to show that the Civil Suit and Miscellaneous Petition are filed by him but the fact remains that for the same relief, parallel proceedings could not have been initiated.

10. The interim relief was granted to the petitioner considering the fact



that despite time granted to learned counsel appearing for respondent No.1/ Municipal Corporation to seek instructions and to apprise the Court, no instructions were received. The record further shows that no reply is filed by Municipal Corporation till date.

11. However, from the short reply submitted by respondent No.2, it is apparently clear that the reliefs claimed in the Civil Suit as well as in this petition are virtually one and the same. Parallel proceedings cannot be permitted to run. The subject matter of the Civil Suit is based upon no permission or sanction by the Authorities to the private respondent to raise construction on the property in question.

12. Under these circumstances, the interim relief granted by this Court on 17/12/2025 is **vacated**.

13. As the Civil Suit is pending adjudication before the competent Civil Court as well as Miscellaneous Petition before this Court, the petitioner can seek a relief of temporary injunction in the pending Civil Suit or in the Miscellaneous Petition.

14. Under these circumstances, the relief which has been claimed in this Writ Petition cannot be granted.

15. The petition *sans* merits and is, accordingly, **dismissed**. No order as to costs.

(VISHAL MISHRA)
JUDGE