

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**CR No. 8 of 2021  
Date of Decision: 31.8.2023**

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**Municipal Corporation, Shimla**

**.....Petitioner**

**Versus**

**Resident Welfare Association Housing Board Colony**

**.....Respondent**

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**Coram**

**Hon'ble Mr. Justice Sandeep Sharma, Judge.  
Whether approved for reporting?**

**For the Petitioner:** Mr. Anil Chauhan, Advocate.

**For the Respondent:** Mr. Y.P. Sood, Advocate.

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**Sandeep Sharma, J.** *(Oral)*

Being aggrieved and dissatisfied with order dated 8.1.2021, passed by the learned District Judge-I Shimla, Himachal Pradesh, whereby CMA No.8-S/14 of 2020 having been filed by the respondent Resident Welfare Association, laying therein challenge to order dated 13.7.2020. passed by the Commissioner MC Shimla, HP in case titled '*Architect Planner, MC Shimla v. Resident Welfare Association Housing Board Colony, Chhota Shimla*' came to be allowed, petitioner-MC has approached this Court in the instant proceedings under Section 115 of the Civil Procedure

Code, praying therein to set-aside aforesaid judgment passed by the learned Additional District Judge.

**2.** Having heard learned counsel for the parties and perused material available on record vis-à-vis reasoning assigned in the same, this Court finds no illegality and infirmity in the same and as such, no interference is called for.

**3.** Precisely, the grouse of the petitioner, as has been highlighted in the petition and further canvassed by learned counsel for the petitioner is that Resident Welfare Association has illegally erected gate on the ambulance road passing through Housing Board Colony, as a result of which, inconvenience is being caused to the General Public, however, having carefully perused judgment laid challenge in the instant proceedings, this Court finds that though in show cause notice, Municipal Corporation alleged that Resident Welfare Association illegally constructed gate without obtaining sanction, which is otherwise required within the limits of MC in terms of the building regulation, however MC was unable to place on record regulation, if any, which binds a person to have prior sanction from the MC for erecting gate in front of his/her house. During proceedings of the case at hand, no document ever came to be placed on

record suggestive of the fact that gate has been erected/constructed by the Resident Welfare Association in violation of bylaws of MC Shimla.

**4.** Consequently, in view of the above, this Court finds no illegality or infirmity in the aforesaid judgment passed by the Additional District Judge, which is upheld and accordingly, present petition is dismissed. Needless to say, to ascertain factum, with respect to encroachment, if any, upon the government land, MC can always apply to the revenue authorities for demarcation so that dispute, if any, is settled for all times to come.

**August 31, 2023**  
(manjit)

**(Sandeep Sharma),**  
**Judge**