

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

OWP 444/2014

ABDUL RASHID DAR

...Appellant(s)/Petitioner(s)

Through: Mr. Kaiser Ali, Advocate vice Mr. M. M. Dar, Advocate

Vs.

STATE OF JK AND OTHERS

...Respondent(s)

Through: Mr. Syed Musaib, Dy. AG

CORAM:

HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL-JUDGE

ORDER
24.12.2024

1. Petitioner prays to prohibit respondents, especially respondents 8 to 10, from interfering into peaceful possession of petitioner's space allotted to him by the respondents, with a further direction to allow to utilize the space allotted to him as per Annexure A to writ petition and follow the due procedure of law as provided under the Municipal Corporation Act and also produce the whole record before this Court with respect to the measures, if any, taken by respondents 8 to 10 for evicting petitioner. He also prays to direct respondents 1 to 3 to seek explanation from respondents 4 to 10 with respect to the interference caused by them to the petitioner's allotment and possession thereon and take administrative/disciplinary action against them under law, as the same action is being done by them by accepting handsome consideration from other shopkeepers of the vicinity.
2. Petitioner's contention is that a space available in front of his shop was allotted to him respondent no.3 and in this regard formal order was also issued. He is paying rent thereof regularly. However, respondents 8 to 10 are causing interference in his peaceful possession, forcing him to move instant writ petition.
3. Objections have been filed by respondents except respondents 4 to 10.

4. According to counsel for petitioner, action contemplated to be taken by respondents 8 to 10 deserves to be stopped as same action was also taken by respondents with respect to two identical spaces allotted to two other persons in the same locality who approached this Court with OWP No.102/2014 titled as *Mudasir Ahmad Dar & Another v/s State & others*, wherein orders were passed in their favour by this Court. He, thus, avers that since case of petitioner is also similar and identical and requires same protection.
5. Mr. Syed Musaib, learned Dy. AG, when matter came up for consideration, stated that respondents would have no objection if the relief sought for by petitioner is granted. He undertakes that respondents will proceed in the matter strictly in accordance with law. He also states that the petitioner has prayed to direct respondents to allow him to utilize the space allotted to and follow due course of law and under the Municipal Corporation Act.
6. In view of the submissions of learned counsel for the respondents that they would not interfere in the space so claimed by the petitioner except in due course of law, it would be futile to keep instant writ petition pending.
7. So far as the relief of taking action against respondents 4 to 10 is concerned, respondents 1 to 3 would seek explanation from them regarding the allegations made by petitioner in the instant writ petition and pass appropriate orders, accordingly.
8. In view of the above, this petition shall stand **disposed of**.

(VINOD CHATTERJI KOUL)
JUDGE

SRINAGAR
24.12.2024
"Imtiyaz"