

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

Reserved on: 14.08.2025
Pronounced on: 04.09.2025

CJ Court

RP No.13/2025

Mohammad Rafiq Zargar, aged: 64 years
S/o Ghulam Muhammad Zargar R/o Iqbal
Abad Buchpora, Anwarshah Lane,
Srinagar.

...PETITIONER(S)

*Through: - Mr. R. A. Jan, Sr. Advocate, with
Mr. Abu Bakar Pandit, Advocate.*

Vs.

1. State (now UT) of J&K through Chief Secretary, J&K Srinagar/Jammu.
2. Commissioner/Secretary to Govt. Tourism Department, Civil Secretariate Srinagar/Jammu.
3. Chief Executive Officer, Gulmarg Development Authority, Tangmarg.
4. Executive Engineer, Gulmarg Development Authority, Tangmarg.
5. Assistant Executive Engineer, Gulmarg Development Authority, Gulmarg.
6. Abdul Rashid Khan S/o Wali Muhammad Khan R/o Haipora Tangmarg.

...RESPONDENT(S)

*Through: - Mr. Mohsin S. Qadiri, Sr. AAG, with
Ms. Maha Majeed, Advocate.*

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE**

JUDGMENT

OSWAL 'J'

1) The petitioner is seeking review of the order dated 31.12.2024 whereby the application preferred by the petitioner for permitting him to undertake the internal

works wherever required so as to protect and preserve the structure, pending final decision in the main Public Interest Litigation, was dismissed.

2) The review of the order (supra) is being sought on the ground that the material facts of vital bearing have escaped the consideration of the Court resulting into order dated 31.12.2024, which, in fact, is an error apparent on the face of record.

3) Mr. R. A. Jan, learned senior counsel for the petitioner, has argued that the petitioner had applied for re-construction of the hut and the permission was accorded not only for minor repairs but renovations/retrofitting of Khilan hut and even the permission was granted by respondents for transportation of requisite construction material for undertaking construction work.

4) *Per contra*, Mr. Mohsin Qadri, learned Sr. AAG, has submitted that vide order dated 20.05.2019, the permission was accorded to the petitioner for carrying out repairs/renovation/retrofitting in accordance with the report of the Court Commissioner whereas the petitioner, in utter disregard of the sanction dated 20th May, 2019, demolished the whole structure and, in its place, has raised a full-fledged multi-storeyed concrete building and, as such,

has not only violated the building permission but also the orders passed by this Court in Public Interest Litigation.

5) Heard and perused the record.

6) The record depicts that the Court Commissioners in terms of their report had recommended the following repairs of the hut:

- a. Strengthening of the plinth including RCC Jacketing and plinth protection.
- b. Repairment of damaged wooden floors & stairs, ceiling, joists, panelling, doors and windows.
- c. Repairment of bathrooms which includes needful fittings.
- d. Repairments of Kitchen.
- e. Repairments of damaged Roof which includes wooden Truss, CGI Sheets, Soffit and Eaves Boarding within permissible limits of Ridges Height.
- f. Electrification of the Structure including all necessary fittings.
- g. Repairments of Soakage/Septic Tanks by way of brick masonry/stone masonry.

7) Taking into consideration the report of the Commissioner, sanction dated 20.05.2019 was accorded to the petitioner for carrying out of minor repairs only in respect of Khilan Hut Gulmarg. Thereafter, the Commissioners submitted the report in respect of the inspection done on 22nd July, 2019, thereby stating that it was found that the construction has been started and the building material was found lying in the compound of the hut. The occupier has produced the sanction order dated

20.05.2019 for repairs, renovation/retrofitting of the hut but the hut was found beyond repairs.

8) In the order under review, a finding has been recorded by the Court that vide order 20.05.2019, the petitioner was permitted to carry out minor repairs in accordance with the report of the Court Commissioner and the decisions taken in BOCA meetings held on 12th November, 2018 and 28th December, 2018, thereby making it clear that there shall be no change in length, breadth and height of the existing structure/hut. It was further made clear in the terms and conditions of the permission so granted that the permission is granted only for repair/renovation/retrofitting and shall not be extended for reconstruction under any circumstances. After taking note of the sanction order dated 20th May, 2019, it was recorded that no permission for fresh construction was granted in favour of the petitioner either by this Court or by the Building Permission Authority, yet the petitioner is alleged to have raised the construction in contravention of the said building permission instead of the permitted repairs/renovations.

9) It is settled proposition of law that the review is permissible only when there is a mistake or error apparent on the face of record, discovery of new and important matter or evidence which, after the exercise of due diligence, was

not within the knowledge of the person seeking review of an order and could not be produced by him at the time of passing of the order or for any other sufficient reason. Mere repetition of old and overruled argument is not enough to re-open the concluded adjudication.

10) We are of the considered opinion that there is no error apparent on the face of record of the order sought to be reviewed. The petitioner by filing the instant review petition has sought to re-agitate the grounds/contentions which have already been considered by this Court in the order under review. The petitioner can't be permitted to re-agitate the contentions already considered by the Court in its order under review.

11) For the foregoing reasons, we do not find any merit in this review petition and the same is, accordingly, dismissed.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Srinagar
04.09.2025
"Bhat Altaf"

Whether the Judgment is speaking:	Yes
Whether the judgment is reportable:	No