

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

OWP No. 1480/2015

IA. No. 1/2015

IA No. 2/2015

**Sanatan Dharam Pratap Sabha LalChowk,
Srinagar through its Member, namely Kamal
Nain Dhawan S/O Late Sh. Chuni Lal Dhawani,
R/O GogjiBagh, Srinagar.**

...Petitioner(s)

Through: Ms. Farah, Adv, vice Mr. R.A.Jan, Sr. Adv.

Vs.

- 1. State of JK through
Commissioner/Secretary to Government
Home Department, Civil Secretariat,
Srinagar.**
- 2. District Magistrate, Srinagar.
Revenue Complex, TankiPora, Srinagar.**
- 3. Senior Superintendent of Police, Srinagar**
- 4. Station House Officer
Police Station
Sheergari, near Bakshi Stadium,
Srinagar.**
- 5. Nasrullah Khan
S/O. Muhammad Sidiq Khan
R/O. Hamdaniya Colony, Natipora,
Srinagar.**

...Respondent(s)

Through: Mr. IlyasNazirlaway, Government Advocate

CORAM:

HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE.

**ORDER
20.12.2025**

Oral:

01. The petitioner, through the medium of instant petition,

has sought the following reliefs:-

*“i. That the official respondents be directed to report
to this Hon’ble court the action and the stage of*

investigation made by them in FIR No. 68/2013 dated 13.10.2013 FIR No. 60/2014 dated 16.07.2014 and FIR No. 83/2014. The Hon'ble court may also monitor the investigation being conducted in these FIRs.

ii. That respondent no. 3 be directed to remove all encroachments from 14 Kanals and 06 Marlas of land comprised in Survey No. 687 situate at Allochi BaghMoza Nursing Garh, Srinagar and to keep the property in its custody.

iii. That the official respondents be directed to ensure that interference is caused in the ownership and possession of the petitioner Sabha and in the construction of the boundary wall by the petitioner Sabha and or in carrying out such other constructions/demolitions of the structures existing in the land as per the petitioner Sabha may deem fit.

iv. That the official respondents be further directed to ensure that no person is allowed to trespass into the property except when authorized to do so by the petitioner Sabha, and if any person interferes in the possession and ownership of the property, the official respondents be directed to take action against such person immediately and cause his arrest as may be warranted under law."

02. The petitioner, who claims to be "Sanatan Dharam Pratap Sabha" has come forward with the institution of instant petition which is registered as OWP No. 1480/2015. The petitioner-Sabha also claims to be owner in possession of immovable properties amongst

other places at Srinagar vis-à-vis the land measuring 14 Kanals 06 Marlas comprised in Khasra No. 687 situated at Alochi Bagh Moza Nursing Garh abutting main Solina I.G. Airport Road.

03. It is pleaded by the petitioner in the writ petition that respondent no. 5 filed a civil suit for specific performance and permanent/mandatory injunction before the court of learned Additional District Judge, Srinagar and the said suit was accompanied with interim application seeking temporary injunction. The learned trial court, vide Order dated 28th March, 2014, dismissed the application for temporary injunction and vacated the interim order by observing that the act of respondent no. 5 is misleading and deplorable.

04. Feeling aggrieved of the aforesaid order, the respondent no. 5 has preferred a Miscellaneous Appeal before this Court being CIMA No. 54/2014, which too has suffered dismissal vide Order dated 5th May, 2014. In addition, the respondent no. 5 again filed a civil suit before the learned District Judge, Srinagar on 31st July, 2009, which suit was, accordingly, transferred to the court of 3rd Additional Munsiff, Srinagar, in which the respondent 5 claimed relief for permanent injunction against the petitioner-Sabha over 03 Kanals 10 Marlas of land comprised in Survey No. 687 situated at Alochi Bagh Moza Nursing Garh, Srinagar. The said suit,

however, was dismissed for non-prosecution on 1st December, 2012.

05. The filing of proceedings repeatedly by the respondent no. 5 did not come to end, he has filed one more suit before the court of District Judge, Srinagar, in which, he claimed deficiency of 06 Kanals and 09 Marlas of land, which suit was also dismissed for non-prosecution on 14th February, 2012. The matter did not end over here, the respondent no. 5, yet gain filed another suit on 24th July, 2013 before the court of District Judge, Srinagar, which was transferred to the court of Additional District Judge, Srinagar, wherein the respondent no. 5 claimed permanent prohibitory injunction against the petitioner-Sabha. Ultimately, the said suit was withdrawn by the respondent no 5 on 22nd November, 2013.

06. Thereafter, the respondent no. 5 came forward with the institution of writ petition being OWP No. 67/2014, in which, he claimed relief against the official respondents that they should not cause any harassment to him, which writ petition was disposed of by this Court vide Order dated 24th January, 2014. The petitioner-Sabha, feeling aggrieved of the same, filed Letter Patent Appeal being LPA No. 39/2014, which has been disposed of by the Hon'ble Division Bench of this Court vide Order dated 4th September, 2014. For facility of reference, the operative part of the aforesaid order is reproduced as under:-

“ We wish to clarify that the aforesaid expression used by Writ Court shall not be construed to mean that it would hamper the investigation process or presentation of challan. The investigating officer is deemed to be at liberty to take all steps for completion of investigation and presentation of challan. Likewise, the pendency of civil suit shall also not be treated as an act of harassment at the instance of appellant.

With the aforesaid clarification, disposed of the appeal.

The appeal stands disposed of accordingly.”

07. It is further pleaded by the petitioner-Sabha in the writ petition that from the legal proceedings filed by the respondent no. 5, the details whereof have been reflected in the preceding paragraph, he has fabricated two fake General Power of Attorneys for 03 Kanals each allegedly executed on 14th September, 2006, reflecting therein that the same are executed between him and the petitioner-Sabha, acting through Dharam Veer Batra and one Abdul Majeed Beigh S/O. Ghulam Qadir Beigh R/O Nowshehra, Srinagar, when, as per the petitioner, no such Power of Attorneys were executed by petitioner-Sabha and feeling aggrieved of the same, the petitioner-Sabha referred the matter to the Crime Branch, Srinagar. The respondent No. 5 even fraudulently opened two Bank Accounts in the name of Shri Sanatan Dharam Pratap Sabha at Jammu and Kashmir Bank Ltd. Branch Amphalla, Jammu and Canara Bank

Branch Shalimar, Jammu and in these accounts, the respondent n o. 5 encashed the Bank Drafts which he had obtained from aforesaid Abdul Majeed Beigh in the name of petitioner-Sabha, which fact has been verified by the Crime Branch, Srinagar during investigation. The respondent no. 5, it is pleaded, operated these Bank Accounts as functionary of the petitioner-Sabha and also managed false and fraudulent entry in the revenue record in connivance with local Patwari, which was later on set aside by the competent Revenue authority and accordingly the correct position was restored.

08. The respondent no. 5 having failed to manipulate things started trespassing on the land of the petitioner-Sabha and subsequently FIR was lodged against the respondent no. 5 registered as FIR No. 68/2013 dated 13th October, 2013 under Section 147/447 RPC. The petitioner-Sabha thereafter filed a formal complaint before the court of Chief Judicial Magistrate, Srinagar on 26th November, 2013, in which, the petitioner-Sabha claimed that it owns and is in possession of land measuring 14 Kanals and 06 Marlas in Khasra No. 687 at Moza Nursing Garh Tehsiul and District Srinagar and in this behalf a request was made that case be registered against the respondent no. 5 and other officers under various provisions of RPC and Prevention of Corruption Act.

09. The petitioner-Sabha simultaneously approached the Government for redressal of its grievance. The office of Additional Commissioner, Kashmir, asked the Deputy Commissioner, Srinagar to look into the matter with regard to the complaint so filed by the petitioner-Sabha. The District Magistrate, acting under the provisions of Migrant Immovable Property (Preservation Protection and Restraint on Distress Sales) Act, 1997 (for short “Act of 1997”), passed an order dated 23rd June, 2014, whereby the Tehsildar was directed to proceed on spot and restore the property within weeks’ time in favour of Sanathan Dharam Pratap Sabha Trust through its real trustees and submit the compliance report to the concerned office.

10. In the light of the directions passed by the District Magistrate, the Tehsildar concerned proceeded on spot on 28th June, 2014 and locked the super structure. It is pleaded that once the structure was sealed, yet the respondent no. 5 committed gross serious offence by breaking the seal and the lock put by the Tehsildar. The Tehsildar again locked the super structure on 29th June, 2014 and sealed the property again and, accordingly, the Tehsildar submitted a report to Deputy Commissioner, Srinagar dated 7th July, 2014.

11. It is specifically pleaded in the writ petition that based on patently illegal action on the part of respondent no. 5 and having committed serious offence, a case was

registered under FIR No. 60/2014 dated 16th July, 2014. Accordingly, the Deputy Commissioner, Srinagar vide Communication dated 20th October, 2014 directed the Tehsildar to register an FIR against the encroacher respondent no. 5, who had broken the locks of migrant property. On the basis of aforesaid communication and having regard to the offences committed by the respondent no. 5, another FIR being FIR No. 83/2014 dated 21st October, 2014 came to be registered against him and, thus, on the date, the instant writ petition was filed, three FIRs stand registered against the respondent no. 5. The details of which are as under:-

1. *FIR No. 68/2013 dated 13.10.2013 under Section 147, 447, RPC Police Station Shergari.*
2. *FIR No. 60/2014 dated 16.07.2014 under Section 188, 447 RPC Police Station Shergari, and;*
3. *FIR No. 83/2014 dated 21.10.2014 under Section 447 RPC Police Station Shergari.*

12. The respondent no. 5 feeling aggrieved of the same, questioned the order of District Magistrate, Srinagar dated 23rd June, 2014 before this Court by way of filing OWP No. 1020/2014. This Court, vide its order dated 2nd June, 2015, directed the District Magistrate, Srinagar to pass fresh orders after hearing the parties within a period of two months. It was further provided by this Court in the aforesaid Order that “*Till the time*

fresh orders are passed, present status of the petitioner (respondent no. 5) shall not be disturbed.”

13. The petitioner-Sabha, in the instant petition, is calling in question the inaction on the part of Police Station Shergari to investigate the offences committed by the respondent no. 5 in FIR No. 68/2013 dated 13th October, 2013, FIR No. 60/2014 dated 16th July, 2014 and FIR No. 83/2014. The petitioner-Sabha in the instant petition has also sought a direction against the respondents 1, 3, and 4, who were not investigating the offences committed by the respondent no. 5 and, accordingly, it was prayed that a direction be issued to the SSP concerned to ensure and complete the investigation in the aforesaid FIRs expeditiously and report compliance as cognizable offences have been committed by the respondent no. 5. In addition, the petitioner-Sabha has also prayed that District Magistrate needs to be directed to take over entire control and possession of the property of the petitioner-Sabha under the Act of 1997 till such time the decision is delivered by the District Magistrate in terms of the Order of this Court dated 2nd June, 2015.

14. *Per contra*, the reply/status report stands filed on behalf of the official respondents 1 to 4. The respondents, while filing the status report, have specifically pleaded that, in so far as the FIR No. 68/2013 is concerned, it was registered under Sections

447, 147 RPC before the Police Station Sheergari, Srinagar. The matter was investigated and all required formalities were completed and consequently the case was closed and challan against Nasrullah Khan, Hilal Ahmad Bhat and Bashir Ahmad Bhat was presented before the learned court of Judge Small Causes on 28th October, 2014. The further stand taken by the respondents in the status report is that another FIR bearing No. 60/2014 under Section 188, 447 RPC stands registered at Police Station Sheergari, Srinagar.

15. The respondents have taken further stand in the status report that on 21st October, 2014, the respondent no. 4 had received one more application submitted by Kamal Nain Dawan (Executive Member of Sanatan Dharam Pratap Sabha) to the effect that the police station is aware about the trespass made by the respondent no. 5 on the intervening night of 12/13th October, 2013, pursuant to which, the Deputy Commissioner, Srinagar issued order of eviction on 23rd June, 2014. The respondents further stated in the reply/status report that the trespasser has installed the fixtures on the same piece of land measuring 14 Kanals and 06 Marlas (Khasra No. 687) and was repairing the shed also and on the basis of another FIR No. 83/2014 under Section 447 RPC, a case was registered and after completing all investigational/legal formalities, the case was challaned against the said accused Nasrullah Khan

before the court of 3rd Additional Munsiff, Srinagar on 20th November, 2014.

16. The instant matter was heard in part on 18th December, 2025 and was directed to be listed on 20th December, 2025, with a specific direction to the learned counsel for the petitioner to obtain instructions or address arguments on merits.

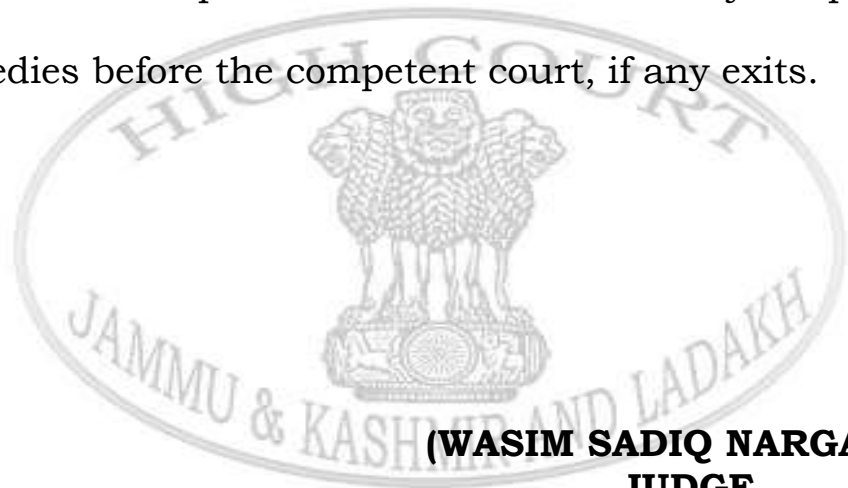
17. When the matter was taken up today, learned counsel for the petitioner once again submitted that she had no instructions and expressed her inability to put forth her arguments. In view of the repeated requests for adjournment, this Court proceeds to decide the matter on merits so as to prevent unnecessary prolongation of the proceedings.

18. The sole grievance raised by the petitioner-Sabha pertained to the alleged non-investigation of the FIRs in question. However, in light of the stand taken by the respondents in the status report/reply, as also the submissions made by Mr. Mohsin Qadiri, learned Senior Additional Advocate General, it is evident that the challans in FIR No. 68/2013 under Sections 147 and 447 RPC, FIR No. 60/2014 under Sections 188 and 447 RPC, and FIR No. 83/2014 under Section 447 RPC have already been presented before the court of competent jurisdiction on 28th October, 2014, 28th October, 2014, and 20th November, 2014 respectively, where the matters are pending.

19. As regards the remaining reliefs sought in the writ petition, the appropriate directions have already been issued by the competent authority, namely the concerned Deputy Commissioner, who is statutorily obligated under the Migrant Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act, 1997 to protect the property in question, and the same stands protected as on date. No further grievance, therefore, survives for consideration.

20. Consequently, no useful purpose would be served by keeping the present petition pending.

21. Accordingly, the writ petition is disposed of with the direction that petitioner shall be at liberty to pursue remedies before the competent court, if any exists.



(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:
20.12.2025

"Shamim Dar PS"

Whether the Judgment is reportable? Yes/No
Whether the Judgment is speaking? Yes/No