

S.No.18
Regular List

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

WP(C) 1900/2023

Al Asset Holding Ltd. (AIAHL) ...Petitioner(s)/Appellant(s)
(Formerly Air India Assets Holdings Ltd
Through its Chief of Properties and Monetization
Shri. Shilendra Kumar
Air India Reservation Building,
2nd Floor Safdarjung Airport New Delhi-110003

Through: Mr. Rabinder Singh, Advocate

Vs.

1. Union Territory of Jammu and Kashmir through Principal Secretary to Housing and Urban Development Department Civil Secretariat Srinagar/Jammu ...Respondent(s)
2. Vice Chairman Srinagar Development Authority Bemina By-Pass Srinagar
3. Director Land Management Srinagar Development Authority (SDA) Bemina By-Pass Srinagar
4. Air India (Pvt)Ltd
Through its Authorised Officer at
Air Cargo Complex, Polo View near Sheri-i-Kashmir Park, Maisuma, Tehsil Khas, Srinagar

Through: Mr. Ilyas Nazir Laway, GA

CORAM:

HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

Judgment (oral)

16-07-2025

1. The petitioner, through the medium of the present writ petition filed under Article 226 of the Constitution of India, has sought the following relief(s):

- “a) Issue a writ of Certiorari and quashing the impugned notice bearing No: SDA/LM/446 Dated 23-06-2023 issued by Respondent No.2 asking the petitioner to handover the possession of the leased property situated at estate Maisuma Srinagar
b) Issue a writ of Prohibition prohibiting the respondents from interfering in the peaceful possession of the leased property during the existence of a valid lease period.

c) Any other writ, order or direction which this Hon'ble court may deem fit and proper also be issued in favour of the petitioner and against the respondents”

2. The petitioner is aggrieved of the impugned notice No. SDA/LM/446 dated 23.06.2023 issued by the respondent No. 2 whereby he was directed to handover the possession of the leased property comprising of Air Cargo Complex with appurtenant land measuring 7.176 kanals situated at Estate Maisuma, Tehsil Khas, District Srinagar, to the Srinagar Development Authority (SDA), within a period of thirty days from the date of issuance of notice and, if the petitioner fails to deliver possession of the property to the SDA, then the SDA shall have the right of re-entry upon the premises and to proceed as per the terms and conditions of the Lease Agreement.
3. The case of the petitioner is that the impugned notice has been issued without following due process of law. It is further pleaded that in the light of a validly executed lease which still continues to be in operation and as the same has neither been revoked nor outlived its life, the impugned notice cannot sustain the test of law and is liable to be quashed.
4. Further, the case of the petitioner is that the impugned notice has been issued without providing any opportunity of being heard to the petitioner, which is in violation of principles of natural justice and on this ground as well, the impugned notice deserves to be quashed.
5. It is pleaded that the respondent No. 2 has issued the impugned notice based on alleged violation of the covenants of the lease deed executed between the Government of Jammu and Kashmir and the Air India Ltd (Erstwhile Indian Airlines) more particularly, for violation of Clause

3(i),3(viii) of the lease deed dated 9th October, 1987 which prohibits unauthorized subletting. The allegations of the respondents as per the petitioner are contrary to the permission dated 2nd March, 2013 granted by the respondent No. 2 and the action has been taken pursuant to the said permission.

6. It is further stated that the respondent No. 2 issued the impugned notice, in absence of any material evidence, and otherwise also it is not the case of the respondents that the petitioner is an unauthorized occupant under the Jammu & Kashmir Eviction of Unauthorized Occupants Act 1988 as alleged in the impugned notice.
7. *Per contra*, the reply stands filed by the respondents 1 to 3, wherein, a specific stand has been taken by the respondents that the petitioner has sublet the premises to J&K Bank Limited which is operating a Data Center at the said premises, in violation of the terms and conditions of the lease deed. The contention of the petitioner that SDA has granted permission for sub-lease vide letter dated 2nd March, 2023, is contrary to the record and is incorrect as the said 'No Objection Certificate' was only issued to allow banking facilities for the convenience of the general public. Under the garb of the said permission, the petitioner has sublet the premises, which is violation of the terms and conditions of the lease deed and was not permissible under law.
8. Since the petitioner has violated the terms and conditions of the lease deed, the Administrative Department has authorized Chairman Development Authority, Jammu/Srinagar vide communication dated 6th March, 2023 followed by another communication dated 15th June, 2023 to proceed ahead in the matter which was in conformity with the advice

of the Law Department and consequently notice dated 23rd June, was issued by the Srinagar Development Authority to the petitioner which is impugned in the present petition.

9. The respondents have also taken a further stand that no permission was ever granted by the SDA to the petitioner for subletting the premises to J&K Bank, that too, for running its Data Center.
10. The record reveals that Indian Airlines/Air India executed a sub-lease deed with J&K Bank Limited on 10th April 2013 for the residue period of unexpired lease term originally granted to erstwhile Indian Airlines/Air India. It has also been pleaded that the entire premises are being utilized by J&K Bank Limited, except for a small office used by Air India Limited. There is clear evidence that Indian Airlines/Air India has commercialized almost the entire building, except for a few rooms. The building/premises are being used for the Data Center operations of J&K Bank and its allied offices, car parking, and facilities for J&K Bank staff. Air India is charging substantial rentals from J&K Bank Limited, which is clearly in violation of the lease agreement, as the premises were leased by the respondent-authority to Indian Airlines/Air India specifically for its booking office.
11. The further stand of the respondents is that the SDA has only consented to provide additional banking facilities/FOREX facilities for the convenience of the general public and has never allowed the petitioner to sublet the premises.
12. Heard learned counsel for the parties at length and perused the material on record.

13. Learned counsel for the respondents has raised preliminary objections in addition to their substantive stand regarding the maintainability of the instant petition, referring to the terms and conditions of the lease agreement. He has drawn the attention of this Court to the arbitration clause contained therein, which is reproduced below for facility of reference:

Provided always that every dispute, difference of question which may at any time arise between the parties hereto or any person claiming under them relating to or arising out of or in respect of this deed or the subject matter thereof, the same shall be referred to the arbitration of the Housing and Urban Development Minister J&K State or any authority appointed by the lessor in this behalf under the law relating to Arbitration for the time being in force in the state and his decision thereon shall be final, conclusive and binding on the parties.

14. Learned counsel for the respondents further submits that in light of the arbitration clause, the present petition is not maintainable. The petitioner, instead of invoking the said clause, has chosen to file the instant petition, which is not maintainable and is liable to be dismissed at the very threshold.

15. This Court is in agreement with the submissions advanced by learned counsel for the respondents that, in light of the arbitration clause, the instant petition is not maintainable, and the petitioner has failed to invoke the aforesaid provision in case of any dispute and has instead filed this petition, which is not maintainable.

16. Without commenting on the merits of the case, this Court, in light of the objections raised by learned counsel for the respondents, deems it proper to hold that the instant petition is not maintainable and deserves dismissal. Accordingly, the petition is **dismissed**. However, this shall

not come in the way of the petitioner from seeking an appropriate remedy under the law, if so advised.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:
16-07-2025
Mubashir

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| i. | Whether the Judgment is Reportable: | Yes/No |
| ii. | Whether the Judgment is Speaking: | Yes/No |

