

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

WP(C) 1915/2025 CM(5078/2025)

ARSHAD SHAFI

...Petitioner(s)/appellant(s)

Through: Ms. Mehreen Altaf, Advocate

Vs.

UNION TERRITORY OF J AND K AND ORS

...Respondent(s)

Through: Ms. Maha Majeed, Assisting Counsel

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

ORDER

18-08-2025

On August 12, 2025, this Court had passed the following order:

“Heard.

Notice.

Notice regarding stay.

Served with an advance copy, Mr. Faheem Nissar Shah, learned GA, accepts notice and prays for a short accommodation to seek instructions and/or submit response.

Adjourned to 18.08.2025

Meanwhile, status quo, as it exists today, shall be maintained. This, however, shall not preclude the authorities to proceed and pass an order in terms of Section 7(3) of the Act, if so advised.”

Today, learned counsel for the respondents, at the outset, submits that the necessary order in terms of Section 7(3) of the Jammu and Kashmir Control of Building Operations Act (COBA), 1988 has since been passed and, therefore, the petition at hand is rendered infructuous.

However, to the contrary, learned counsel for the petitioner submits that although the order passed under Section 7 is appealable under Section 13 of the Act which postulates a period of seven days to avail the remedy to appeal. Whereas, with reference to the order

dated August 14, 2025, she submits that authorities have directed the petitioner to demolish the alleged structure within a period of four days.

Thus, she asserts that apparently the time within which the petitioner is required to demolish the alleged illegal structure is erroneous, for once the statute provides a period of seven days to the person aggrieved, by an order under Section 7, any direction vide an order passed under Section 7 to carry out demolition etc within less than seven days is apparently misconceived and erroneous.

At any rate, she submits that the said order was passed on 14th August, 2025 and the following three days i.e., 15th, 16th & 17th August happened to be the holidays and, therefore, even as per the order dated August 14, 2025, the period of four days would be reckoned from today.

Be that as it may, she submits that the petition at hand is rendered infructuous and the same be disposed of as such with liberty to the petitioner to avail the remedy of appeal against an order dated August 14, 2025. However, she submits that the authorities be directed not to demolish the alleged structure for a period of one week from today to file an appeal under Section 13 of the Act along-with an application for interim relief.

The prayer made is not opposed by the learned counsel for the respondents.

Accordingly, the petition is *disposed of* as having rendered infructuous. However, no coercive measures against the petitioner shall be taken in terms of order dated August 14, 2025 for a period of seven days from today.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

SRINAGAR
18-08-2025
Shameem H.