

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

WP(C) 180/2026 CM(418/2026)

ARSHAD HUSSAIN KHAN & OTHERS

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

Through: Ms Asma Rashid, Advocate with
Mr. Parvaiz Ahmad, Advocate

Vs.

COMMISSIONER (SMC) AND OTHERS

...Respondent(s).

Through:

CORAM: HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE

ORDER

06.02.2026

1. Heard learned counsel for the petitioners.
2. The case of the petitioners is that the respondents, i.e., officials of the SMC, Srinagar, despite the matter being sub-judice and despite subsisting judicial orders have issued an unlawful demolition order in respect of their building. That they were granted building permission vide Order No. 103 of 2020 dated 30.06.2020 up to a height of 55 feet. That thereafter, they applied for permission regarding additional height of 10 feet. That the respondents failed to communicate any decision within the stipulated period of 60 days, thereby attracting the deeming provision under Section 274 of the Municipal Corporation Act, 2000. That, aggrieved by the inaction on the part of the respondent-Corporation, they approached the court of the Additional District Judge, Srinagar, which granted interim protection by recognizing deemed permission vide order dated 29.12.2025. That during the pendency of the civil proceedings and despite service of notice and knowledge of the court orders, the respondents deliberately avoided contesting the matter and instead issued a notice followed by demolition dated 02.02.2026. That the respondent-

Corporation has taken the impugned action in utter disregard of judicial orders, principle of natural justice and statutory provisions including Section 254(5) of the Municipal Corporation Act, which permits compounding of minor deviations. That they have an imminent threat of demolition and are thus in need of urgent protection by this Court.

3. Perused memo of petition filed under the provisions of the Article 226 of the Constitution of India.

4. The petitioners have prayed for the issuance of the following reliefs in the petition:

- a. *“A writ of Certiorari quashing the impugned demolition notice bearing No. SMC/Enf/W/6776-84 dated 02.02.2026, issued by the respondents being illegal, arbitrary, and unconstitutional.*
- b. *A writ of Mandamus commanding the Respondents not to take any coercive action, including demolition or sealing, against the Petitioners’ building situated at Lawaypora, Srinagar, during the pendency of the civil suit and in violation of subsisting judicial orders.*
- c. *A writ of Mandamus directing the Respondents to consider and process the Petitioners’ revised plan/deemed permission strictly in accordance with the provisions of the Jammu and Kashmir Corporation Act, 2000 and the Municipal Bye-laws, after affording due opportunity or hearing.*
- d. *A writ order or direction, declaring the actions of the Respondents, including interference with construction despite court orders, as illegal, arbitrary, and without jurisdiction.*
- e. *Any other writ, or direction as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case, in the interest of justice.”*

5. In the facts and circumstances of the case, it is prima facie apparent that the petitioners have approached this Court by invoking the provisions of Article 226 of the Constitution of India despite having an efficacious alternate remedy. The petitioners appear to intend to get an interim order passed by the court of the learned Additional District Judge, Srinagar, to be executed by this Court through the medium of the instant petition.

6. Having regard to the grievance of the petitioners, they have an appropriate remedy before the court of the Additional District Judge, Srinagar, in which their own suit is still pending disposal. They also have an alternate remedy of challenging the alleged impugned demolition notice/order before the appropriate forum, i.e., the Jammu & Kashmir Special Tribunal, Srinagar.

7. The instant petition is, accordingly, disposed of at this threshold stage, with liberty to the petitioners that they can as a matter of right exhaust their remedy before the aforesaid Court/Tribunal.

8. Disposed of.

**(MOHD YOUSUF WANI)
JUDGE**

SRINAGAR
06.02.2026
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