

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

WP(C) 315/2026 Caveat 202/2026

Abdul Ahad Parray and

Another

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

Through: Mr. Umer Rashid Wani, Advocate

Vs.

Union Territory of J and K Th.

Commr/Secretary to Govt and

Others

...Respondent(s).

Through: Mr. Saqib Shabir, Advocate.

CORAM:

HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE

ORDER

25.02.2026

Caveat 202/2026

1. With the appearance of Mr. Saqib Shabir, Advocate, learned counsel for the Respondent No. 6/Caveator, the Caveat stands discharged.

WP(C) 315/2026

1. Mr. Saqib Shabir, Advocate, who was already on caveat on behalf of the respondent No. 6 appears and accepts notice in the matter for the said respondent.

2. Heard the learned counsel for the petitioners and considered his submissions.

3. The case of the petitioners in nutshell is that a building permission vide order dated 23.11.2024 came to be issued in favour of the petitioner No. 2 by the competent authority for construction of a double storied residential house. That the said permission was granted in favour of the petitioner No. 2 only after all the concerned line departments issued NOC's in respect of the matter.

That as soon as the construction material was dumped and the process of construction was undertaken, the respondent No. 6 in pursuit of taking advantage of the situation, filed a suit for declaration, partition and possession in the Court of Id Munsiff Ganderbal, wherein an order of status quo came to be passed by the Court. That the said order of status quo came to be modified subsequently with the permission to the petitioners to proceed with the construction. That being aggrieved of the modified order of the Id. Civil Court, the respondent No. 6 challenged the same through the medium of a miscellaneous appeal before the Court of Id. Principal District Judge, Ganderbal, but no stay order was granted by the Id. Appellate Court. That failing on every front to stop the construction, the respondent No. 6 managed to get the order of building permission placed into abeyance from the Office of the Block Development Officer which had issued the same. That the petitioners have been left with no option but to approach this Court through the medium of the instant petition for seeking the quashment of the order dated 15.12.2025 with a further direction for prohibiting the respondents from interfering in the constructional process already undertaken by them on Khasra No. 44 Revenue Estate Wayil, as per the orders of the Id. Civil Courts.

4. I have heard the learned counsel for both the parties.

5. It is submitted by the learned counsel for the petitioners that as per the provisions of the Govt Order No. 75-RD&PR of 2022 dated 01.04.2022, any person aggrieved of the building permission having been granted by the competent authority in exercise of its powers under Govt Order 11-RD&PR of 2022, dated: 22.01.2022 has to approach the Deputy Commissioner

concerned through the medium of an appeal within a period of 30 days which has not been done in the case. It is submitted that the competent committee issued the building permission in the light of the orders passed by the Civil Court which is seized of the dispute between the parties in which the petitioners have been allowed to raise the construction.

6. It is further submitted by the learned counsel for the petitioners that the land constituting the site of construction has already fallen in the share of the petitioner No. 1 who has been in the possession of the same since long. He submitted that the other side has raised a technical objection that the building permission has been issued in the name of the son of the land owner i.e. petitioner No. 2 and not in the name of petitioner No. 1. The learned counsel submitted that the issuance of the building permission in the name of the petitioner No. 2 being the son of the petitioner No. 1/land owner shall not make any difference as there is the consent of the father/petitioner No. 1 in the issuance of the same. The learned counsel, however, also submitted that if the competent committee feels it appropriate to rectify the error, they can re-issue the building permission in the name of the petitioner No. 1/land owner.

The learned counsel for the petitioners further submitted that the construction has already been undertaken and is now in the midway which has suffered a halt on account of the passing of the impugned abeyance order by the BDO concerned without any legal justification. He submitted that the petitioner's family has been badly suffering for want of residential accommodation and their fundamental right guaranteed to them under Article 21 of the Constitution of the Country stands infringed.

The learned counsel further submitted that in the backdrop of the order of learned Munsiff, Ganderbal, permitting the petitioners to raise the construction, the NOC already given by the Tehsildar concerned cannot be supposed to be illegal or malafide.

7. It is submitted by the learned counsel for the private respondent No. 6/Caveator that the respondent No. 6 upon knowing about the building permission with the start of the construction by the petitioners approached the Office of the Deputy Commissioner, Ganderbal, with an application seeking cancellation of the permission and initiation of enquiry against the Tehsildar, Ganderbal for his recommendation regarding the issuance of said permission.

8. It is submitted by the learned counsel for the private respondent No.6 that it is the petitioner No. 1-Father of the building permission holder, who is recorded as a co-sharer and is arrayed as a party in the civil suit but the building permission has been issued in favour of the petitioner No. 2 who happens to be the son of the petitioner No. 1.

9. It is reiterated by the learned counsel that the private respondent No. 6 after learning about the building permission approached the competent authority of Deputy Commissioner, Ganderbal with her grievance who initiated process on the same and as an initial step directed the placing of building permission in abeyance.

10. The Court, in the facts and circumstances of the case, suggested the learned counsel for both the contesting parties that let the Deputy Commissioner, Ganderbal, be directed to proceed expeditiously on the application dated 23.10.2025 of the private respondent No. 6 i.e. Mst. Nabla

Akther D/O. Habib Parray R/O. Managam Chattergul, Ganderbal in accordance with law after associating both the parties i.e. the petitioners as well as the respondent No. 6 in the process by affording them reasonable opportunity of being heard and to put forward their respective stands, if any, in respect of their entitlements so that the matter is decided by him at an earliest without any prejudice and inconvenience to the parties.

11. The learned counsel for the contesting parties present in the Court fairly agreed with the suggestion of the Court and, as such, the matter is taken up for disposal at this threshold stage and is accordingly disposed of with the direction to the Id. Deputy Commissioner, Ganderbal, to expeditiously proceed on the application dated 23.10.2025 already filed by the private respondent Mst. Nabla Akhter with the association of both the parties i.e. the petitioners and the respondent No. 6 by affording them reasonable opportunity of being heard and to put forward their respective stands in respect of their entitlements.

12. The Id. Deputy Commissioner concerned shall dispose of the matter within a period four weeks.

13. Let a copy of this order along with the copy of the petition be forwarded to the Id. Deputy Commissioner, Ganderbal for compliance.

14. **Disposed of.**

(MOHD YOUSUF WANI)
JUDGE

SRINAGAR
25.02.2026
Shahid Manzoor