

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

**CM No. 1806/2026 in
LPA No. 54/2026
CM No. 1807/2026**

M/s Alliance Constructions

.....Appellant(s)

Through:

Mr. Junaid Rashid, Advocate (thr. VC)

Versus

Shailendra Kumar and Ors.

.....Respondent(s)

Through:

*Mr. Mohsin Qadri, Sr. AAG with
Ms. Maha Majeed, AC*

CORAM:

**HON'BLE THE CHIEF JUSTICE
HON'BLE MR JUSTICE RAJNESH OSWAL, JUDGE**

ORDER
15.04.2026

Per Oswal 'J'

CM No. 1806/2026

01. For the reasons stated in the application, the same is allowed and delay of 70 days in filing the appeal is condoned.

02. CM disposed of.

LPA No. 54/2026

01. The learned writ Court in terms of order dated 06.10.2021, passed in WP(C) No. 1957/2021, had directed the respondents to release the retained amount of 10% in terms of condition No. 17.5, within a period of six weeks from the date of receipt of copy of the order, provided the appellant had

fulfilled the terms and conditions in terms of NIT No. e-03 of 2018-19 dated 28.04.2019.

02. The appellant claiming non-compliance of order *supra*, filed a contempt petition bearing CCP(S) No. 598/2021, which came to be dismissed by the learned Single Judge in terms of order dated 21.11.2025, with an observation that the dismissal of the contempt petition shall not preclude the appellant from assailing the stand taken by the respondents or the findings recorded by the Committee afresh, by initiating appropriate proceedings, if so advised and by taking all available grounds.

03. The appellant has assailed the order dated 21.11.2025, through the medium of this Intra Court appeal on the ground that the learned Single Judge has travelled beyond narrow and circumscribed limits of contempt jurisdiction by adjudicating upon seriously disputed questions of fact relating to execution of work, measurement, utilization of funds and alleged access payments, whereas, the jurisdiction in contempt proceedings is confined only to examine whether there has been willful and deliberate disobedience of a judicial direction or not. It is further contended that accepting the respondents defence and recording alleged compliance, the impugned order has the effect of indirectly modifying, diluting and nullifying the writ Court order dated 06.10.2021, as the learned writ Court had categorically directed release of 10% retention money in accordance with Clause 17.5 of the contract and the said order has attained finality. It is also contended by the appellant that the learned Single Judge could not have placed reliance upon a unilateral internal enquiry conducted after initiation of contempt proceedings while closing the contempt proceedings.

04. Heard learned counsel for the parties and perused the record.

05. The record depicts that the learned Single Judge had taken note of the compliance reports dated 23.12.2024 and 14.03.2025. In the compliance report dated 14.03.2025, it was stated that the Committee had observed as under:-

“ 9. That it is respectfully submitted that based on the said order the Assistant Executive Engineers submitted their report the said report is annexed herewith as Annexure-II wherein the committee has observed the following:-

- a. Total length of 435M of Walk-way has been executed against the proposed length of 1600M.*
- b. About 79% of the allotted cost has been utilized in developing of 435M length of Walk-way as against proposed length of 1600M.*
- c. NON-BOQ items worth 22.74% of the work done amount has been executed.*
- d. Either the work has not been executed as per the DPR and/or DPR has not been prepared as per the site conditions/requirements.*
- e. The committee cannot ascertain the under surface and quality/strength/grade of concrete and other allied used items at this stage of time.*
- f. Presently the work is damaged at various spots/places.*
- g. At this stage of time there is no further scope of work as the Srinagar Smart City Limited has already taken up the left out portion of the Walk-way.”*

06. Taking note of the compliance report dated 14.03.2025, the learned Single Judge closed the contempt proceedings in terms of order impugned in this Intra Court appeal. After examining the impugned order, we do not find that the learned Single Judge, has returned any finding, which has the effect of determining the contractual rights of the parties. In fact, the learned Single Judge has left the appellant free to assail the stand taken by the respondents or the finding returned by the Committee by initiating appropriate proceedings. In terms of order dated 06.10.2021, out of which

the contempt petition arose, respondents were enjoined upon to release the amount, provided the appellant had fulfilled the terms and conditions in terms of NIT No. e-03 of 2018-19 dated 28.04.2019. There was no blanket direction to the respondents to release the amount and the respondents were under an obligation to release the amount only after the fulfillment of the terms and conditions of NIT No. e-03 of 2018-19 dated 28.04.2019.

07. We have examined the order passed by the learned writ Court, we find that the learned writ Court has rightly considered the controversy at hand and there is neither any illegality nor impropriety in the order dated 21.11.2025, passed by the learned writ Court in CCP(S) No. 598/2021.

08. In view of the above, we do not find any merit in the appeal. Accordingly, we **dismiss** this appeal along with all connected CM(s).

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Srinagar

15.04.2026

"Mohammad Yaseen Dar"

Whether the order is reportable: Yes/No.