S. No. 27
Regular Cause List

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

CCP(S) No. 11/2020
In WP(C) No. 2046/2019
C/w WP(C) No. 2046/2019

Nisar Ahmad Mir and Anr. …Appellant/Petitioner(s)

Through: Ms. Muzamil Jabeen, Advocate

Vs.

Mehraj-ud-Din Boja and Ors. ...Respondent(s)

Through: Mr. Syed Musaib, Dy. AG
Mr. Moomin Khan, Advocate
Mr. M. I. Dar, Advocate

CORAM:

HON'BLE MR JUSTICE VINOD CHATTERJI KOUL, JUDGE

O R D E R

04.09.2024

CCP(S) No. 11/2020:

1. Mr. Moomin Khan, learned counsel for the respondents submit that in terms of order dated 21.06,2019, the respondents were directed not to allow the construction of building beyond the height of 32 feets, but the respondent No. 5 as alleged in contempt petition has exceeded the height of building.
2. Mr. Moomin Khan, appearing on behalf of SMC, submits that in compliance of aforesaid order, the SMC has demolished the excess portion of building.
3. Order dated 21.06.2019 has been complied with by SMC, therefore, the proceedings in this contempt petition are dropped and contempt petition is **closed**.

WP(C) No. 2046/2019:

4. Petitioners in this petition seek quashing of building permission No.3436 of 2018 dated 27.11.2018.
5. It is submitted by learned counsel for the petitioners that the building permission in question has been obtained by respondent no.5 by

commission of fraud, misrepresentation and the same requires to be quashed.

6. Mr. Syed Musaib, Dy. AG, submits that the petitioners instead of challenging the building permission so granted in favour of respondent No.5 before the J&K Special Tribunal, Srinagar, in terms of Section 403 of J&K Municipal Corporation Act, have challenged the same before this Court.

7. Ms. Muzammil Jabeen, learned counsel for the petitioners, submit that petitioners came to know about the building permission later on during the proceedings in a suit filed before the Municipal Magistrate, Srinagar, therefore, could not file the same within the limitation period. She further submits that petitioners may be given a liberty to approach the tribunal so far as challenge with regard to building permission is concerned.

8. With the consensus of learned counsel for the parties, this writ petition is disposed of by allowing the petitioners to seek cancellation of building permission so granted in favour of respondent no.5, before the Tribunal and the Tribunal shall consider the explanation regarding the delay and if satisfied shall condone the same.

9. **Disposed of** along with connected CM(s).

(VINOD CHATTERJI KOUL)
JUDGE

SRINAGAR
04.09.2024
Manzoor

Manzoor Ul Hassan Dar
I attest to the accuracy and
authenticity of this document
Srinagar
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