

(2023) 08 J&K CK 0011

In the Jammu And Kashmir High Court

Case No : Writ Petition (C) No. 2011 Of 2023, Civil Miscellaneous No. 4666 Of 2023

Ganesh Raj

APPELLANT

Vs

UT Of J&K And Anr

RESPONDENT

Date of Decision : 07-08-2023

Acts Referred:

Jammu And Kashmir Control Of Building. Operations Act, 1988 — Section 7(1), 8(1), 12

Citation : (2023) 08 J&K CK 0011

Hon'ble Judges : Rajnesh Oswal, J

Bench : Single Bench

Advocate : Ravinder Sharma, S. S. Nanda

Final Decision : Disposed Of

Judgement

Rajnesh Oswal, J

1. The present petition has been filed by the petitioner for quashing notice under section 7(1) of the J&K Control of Building Operation Act, 1988 bearing No. MC/S/2023/961-65 dated 27.06.2023 and notice under section 8(1) of the J&K Control of Building Operation Act bearing No. MC/S/2022-23/272-76 dated 01.08.2023.

2. Prima facie, the writ petition impugning notice under section 7(1) of the Act supra is not maintainable more particularly as the same is only a show cause notice and the petitioner instead of showing cause to the respondents has approached this Court through the medium of the present writ petition, as such, this Court does not show any indulgence so far as issuance of notice under section 7(1) of the Act supra is concerned. So far as notice under section 8(1) of the Act supra is concerned, the same appears to have been issued under section 12 of the Jammu and Kashmir Control of Building Operation Act though in the notice, reference of section 8(1) of Act supra has been made.

3. This Court is of the view that mere mentioning of wrong section in the notice would not render it illegal particularly when the respondents have power to issue such directions in terms of section 12 of Act supra.

4. At this stage, Mr. Ravinder Sharma, learned counsel for the petitioner submits that the petitioner shall not raise any further construction without seeking permission from the competent authority.

5. Accordingly, the present petition is disposed of by permitting the petitioner to show cause before the respondents in respect of notice issued under section 7(1) of the Act supra. The petitioner is directed to put forth his case before the respondents by 10.08.2023, failing which, the respondents shall be at liberty to proceed in accordance with law.

6. Disposed of.