

(1998) 09 J&K CK 0015
In the Jammu And Kashmir High Court
Case No : O.W.P. No. 40/90

Jalal-ud-din

APPELLANT

Vs

State of Jammu & Kashmir and Others

RESPONDENT

Date of Decision : 21-09-1998

Acts Referred:

Citation : (1999) KashLJ 6

Hon'ble Judges : T.S.Doabia, J

Bench : Single Bench

Advocate : Syed Manzoor, M.Abdul Qayoom, Advocates appearing for the Parties

Judgement

1. The petitioner was owner of piece of land measuring four marlas located in survey no. 250/ Min situated at Batamaloo Srinagar. The petitioner submitted an application for constructing a building. This permission was granted. Copy of the order by which permission was granted has been placed on record as AnnexureA. Later on another communication was addressed this is AnnexureB. The petitioner was asked to produce a documentary evidence with a view to show that he is owner of the land.

2. The power to grant sanction is contained in Section 220 of the J&K Municipal Act of Samvat 2008 1951 AD. The power to examine as to whether building has been constructed as per the plan is again conferred on the functionaries of the Municipal Committee. The requisite provisions are contained in Section 225 and 226 of the Act. The Municipal Authorities are only to see as to whether the building has been erected in terms of the sanction. Whether the land on which building has been erected belongs to the person who has applied for the sanction is a matter which according to the counsel for the petitioner is alien to the powers which are vested

in the functionaries of the Municipal Committee.

3. It be seen that it is possible for the Municipal Committee to withhold grant of sanction if there is dispute as to the title. Once sanction is granted

and the building is erected then unless the land belongs to the Municipal Committee or to the State Government, the Municipal Committee would

have no power to deal with the subject matter. Again if there is dispute raised by a third person, then it is proper to leave that person to pursue his

remedies in forums available to him. The Municipal Committee cannot go into the question of title. 4. This writ petition is disposed of with the

direction that respondents Municipal Committee would examine the aforementioned matter in the light of the observations made above. If the

dispute is a private dispute, then it would leave the parties to pursue their remedies in forums available to them.