

(2018) 09 J&K CK 0070

In the Jammu And Kashmir High Court

Case No : Other Writ Petition No. 1586 Of 2018

Mohammad Mumtaz And Anr @APPELLANT@Hash Union Of India And Ors

Date of Decision : 27-09-2018

Acts Referred:

Citation : (2018) 09 J&K CK 0070

Hon'ble Judges : Sanjay Kumar Gupta, J

Bench : Single Bench

Advocate : Khwaja Mohammad Rashid

Final Decision : Disposed Off

Judgement

1. Notice. Mr. L. K. Moza, learned CGSC accepts notice on behalf of the Union of India.

2. With the consent of learned counsel for the parties, writ petition is taken up for final disposal.

3. Through the instant writ petition, petitioners seek the following reliefs:-

" Writ of mandamus commanding and directing the respondents to change the survey of construction of Road of Parnai Project from Buffliaz City to Bye Pass, Tehsil Surankote.

Writ of prohibition;- restraining the respondents from constructing road of Parnai Project from Buffliaz City according to the site map prepared by the Border Road Organization."

4. The petitioners claim to be the residents of Tehsil Surankote District Poonch.

5. The grievance of the petitioners is that the respondents No.2, 3 and 4 have prepared site map for construction of the road under the Parnai Project through the City of Buffliaz, Tehsil Surankote and in case they succeed for constructing of the road (Highway) through the City of Buffliaz, there will be huge loss for the inhabitants of the Buffliza and there will be a loss to the Banks, Jama Masjid, Higher Secondary School, near about 150 shops and residential houses situated

in the city of Buffliaz. It is stated that if the respondents 2, 3 and 4 construct the road by pass the inhabitants of the Buffliaz, all the inhabitants will escape from the huge loss and 800 ft area will be covered by changing the survey.

6. Learned counsel for the petitioners states that the inhabitants of Buffliaz moved an application to Tehsildar, Surankote for the purpose of construction of the Bye Pass Road changing from the city of Buffliaz Morh. The Tehsildar vide its communication dated 03.08.2018 recommended the case to the Sub Divisional Magistrate for taking appropriate action. The Sub-Divisional Magistrate Surankote has considered the case of the inhabitants of the Buffliaz and recommended that if respondents 2, 3 and 4 construct the road By Pass of Buffliaz City, the people of the inhabitants of the Buffliaz will escape from the huge loss. It is stated that Sub-Divisional Magistrate vide its communication dated 03.08.2018 recommended the case to the respondent No. 6 for taking the appropriate action. Thereafter, respondent No. 6 has forwarded the representation of the petitioners to SDM and OC with direction to conduct a joint survey and look into it to find out most feasible way. It is further stated that the petitioners have approached the respondents for redressed of their grievances, but till date respondents have not acceded to the request of the petitioners, constraining them to file the instant writ petition.

7. During the course of the arguments, learned counsel for the petitioners states that the petitioners would be satisfied, if respondents are directed to treat the instant writ petition as a representation and consider the claim of the petitioners within some stipulated period. Submission made is considered. There is no legal impediment in granting such relief.

8. Mr. L. K. Moza, learned CGSC appearing for the respondents states that he has no objections, in case, submission of learned counsel for the petitioners is allowed.

9. In view of the aforesaid submissions made by learned counsel for the petitioners and in the facts of the case, the instant writ petition is disposed of with the direction to respondents to treat the writ petition of the petitioners as representation and accord consideration to their claim and take a decision within a period of six weeks from the date of receipt of copy of this order alongwith copy of the writ petition and annexures annexed therein.

10. Writ petition disposed of along with connected MP, in the above said terms.