

(2019) 08 J&K CK 0024

In the Jammu And Kashmir High Court

Case No : CM No. 4248 Of 2019 In Public Interest Litigation (PIL) No. 14 Of 2012

Mohammad Rafiq Zargar

APPELLANT

Vs

State Of Jammu & Kashmir And Ors

RESPONDENT

Date of Decision : 23-08-2019

Acts Referred:

Citation : (2019) 08 J&K CK 0024

Hon'ble Judges : Gita Mittal CJ; Rashid Ali Dar, J

Bench : Division Bench

Advocate : Sheikh Feroz, T. M. Shamsi

Final Decision : Allowed

Judgement

1. Despite repeated opportunities, objections have still not been filed.
2. The applicant, Shafiq Ahmad Qureshi, is present in person and submits that the grave and irreparable loss shall endure if the prayer made in this application is not granted.
3. The applicant has carefully taken us to the application as well as the annexures which bring out the facts which are noticed hereafter.
4. It appears that the applicant is the owner of a hut on the Plot No. 1/Site no. 5, Gulmarg, Kashmir. In respect of certain repairs which became necessary to the hut, the applicant is holding lease rights with regard to the land.
5. The applicant had earlier filed CM no. 1299/2014 in the present matter. On this application, with regard to repairs to be carried out, order dated 21st December, 2016 (page 16) came to be passed directing the applicant to approach the Chief Executive Officer, Gulmarg Development Authority, for necessary permission.

The Judges' Committee appointed by this Court was also directed to visit the spot and make its recommendations. On the application made by the applicant, the

Chief Executive Officer, Gulmarg Development Authority, referred the matter to the Judges' Committee which conducted inspection and submitted a report dated 26th September, 2017 recommending the applicant's request for renovation/reconstruction. The applicant's request for renovation appears to have been sent to the Building Operations Controlling Authority (BOCA) which granted permission for the same vide GDA order No. 02 of 2019 dated 16.05.2019. The recommendation of the Judges' Committee has been placed before us as annexure-B (page 19).

6. As a result of the above recommendation, the Chief Executive Officer, Gulmarg Development Authority, granted permission to the applicant to transport the necessary material for Phase-I of his work vide GDA order No. GDA/LO/19/159-65 dated 13.06.2019.

7. It appears that while the applicant was undertaking the permitted repairs, the Registrar Judicial of this Court visited Gulmarg, as having been appointed the Court Commissioner, and gave some verbal directions on 19th June, 2019 to the Chief Executive Officer, Gulmarg Development Authority. As a result, vide the order No.

7 GDA of 2019 dated 19th June, 2019, the Chief Executive Officer, Gulmarg Development Authority, directed the applicant to keep the repair work in abeyance.

8. The applicant appears to have complied with the directions given by the Chief Executive Officer, Gulmarg Development Authority, and has approached this Court for necessary orders enabling him to complete the work in terms of the above permissions.

9. No opposition to the prayer made in this application stands filed. There is also substance in the prayer of the applicant that the window available to the applicant to complete his work is extremely narrow in as much as it may be very difficult for the applicant to complete the work after the onset of winter and change of weather.

10. In view of the above facts and circumstances, we permit the applicant to complete the repairs as permitted by the order No. 02 GDA of 2019 dated 16th May, 2019 and other permissions as above noticed.

11. The applicant shall ensure that he strictly complies with the permissions which have been granted.

12. The application is allowed in the above terms.

Let a copy of this order be given to the applicant under the seal and signatures of the Joint Registrar-cum-Bench Secretary.