
(2022) 07 J&K CK 0041
In the Jammu And Kashmir High Court
Case No : Writ Petition (C) No. 3459 Of 2019

Nayeem-U-Din Wani	Vs	APPELLANT
UT Of J&K And Others		RESPONDENT

Date of Decision : 19-07-2022

Acts Referred:

Citation : (2022) 07 J&K CK 0041

Hon'ble Judges : Pankaj Mithal, CJ;Javed Iqbal Wani, J

Bench : Division Bench

Advocate : Hakim Suhail, Moomin Khan

Final Decision : Dismissed

Judgement

1. Heard Mr. Hakim Suhail, learned counsel for the petitioner and Mr. Moomin Khan, learned counsel for the Srinagar Municipal Corporation.

2. The petitioner by means of this writ petition has made the following prayers:

"i. By issuance of an appropriate writ or direction, including one, in the nature of certiorari coupled with Mandamus, if any order of demolition has been issued by the respondent No.2, the same be called and quashed.

ii. By issuance of an appropriate writ or direction, including one, in the nature of mandamus, the respondents be directed not to interfere in the peaceful possession of the petitioner over his land.

iii. By issuance of an appropriate writ or direction, including one, in the nature of Mandamus, the respondents be directed not to interfere with the construction raised by the peittioner in terms of the building permission dated 12.09.2019."

iv. By issuance of an appropriate writ or direction, including one, in the nature of mandamus, the respondents be directed not to harass the petitioner without any legal justification."

3. It appears from the averments made in the petition that petitioner claims

himself to be owner of plot No.F5 in the Cooperative Colony, Peerbagh, Srinagar, whereas the proforma respondent no.7 is said to be a resident of Umerabad Sector B, Peerbagh, Srinagar, which is a different colony than that of the petitioner. There was some dispute between the parties whereupon the proforma respondent no.7 filed a suit for permanent prohibitory injunction against the State authorities as well as the petitioner wherein restraint order came to be passed on 10.09.2018. The petitioner applied for vacation of the said order which was vacated vide order dated 26.12.2018 and the suit was dismissed on 28.03.2019.

4. It is in the above background that the petitioner has filed the present writ petition caliming the above reliefs.

5. The petitioner while making a prayer for issuance of a writ of certiorari has not mentioned the particulars or the date of the order which he wants to be quashed.

In view of the same, writ of certiorari for quashing an order which is not spelled out or which is not placed on record, cannot be considered and granted.

6. The other prayers made by the petitioner are for a direction restraining the respondents from interfering in the peaceful possession of the petitioner over the land in dispute.

The said direction sought for is in the nature of an injunction which the petitioner can always get by filing a civil suit and a writ petition for such a direction or injunction that too when the dispute involves the private parties is not maintainable.

7. In view of the aforesaid facts and circumstances, we are of the opinion that it is not a fit case to exercise the discretionary jurisdiction of this Court. Accordingly, the writ petition is dismissed along with all connected MPs. Interim direction, if any, shall stand vacated.