

(2024) 05 J&K CK 0028

In the Jammu And Kashmir High Court

Case No : ?Latters Patent Appeal No. 97 Of 2024, Civil Miscellaneous No. 2493
Of 2024

Nazir Ahmad Butt

APPELLANT

Vs

J&K Special Tribunal And Others

RESPONDENT

Date of Decision : 06-05-2024

Acts Referred:

Jammu And Kashmir Municipal Corporation Act, 2000 — Section 253(1)

Citation : (2024) 05 J&K CK 0028

Hon'ble Judges : N. Kotiswar Singh, CJ; Moksha Khajuria Kazmi, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the parties.
2. The petitioner having been served with a demolition notice under Section 253(1) of the J&K Municipal Corporation Act, 2000, on 01.04.2024, challenged by the same by way of a statutory appeal before the Jammu & Kashmir Special Tribunal, Srinagar, and the learned Tribunal vide its order 08.04.2024 directed maintenance of status-quo with a rider that no further construction of any nature shall be undertaken by the appellant and to this effect and the appellant was directed to furnish a bond to the tune of Rs.10,00,000/- to the satisfaction of the Assistant Registrar of the Tribunal.
3. The appellant having failed to submit the undertaking, the Tribunal proceeded to vacate the interim direction granted on 08.04.2024 vide its order dated 12.04.2024.
4. The petitioner feeling aggrieved by the aforesaid order of the Tribunal dated 12.04.2024 challenged the same by the medium of WP(C) No.794/2024 before the Single Bench of this Court and the learned Single Judge vide its order dated 19.04.2024 refused to show indulgence in the matter and dismissed the writ petition.

5. Learned counsel for the appellant submits that after the status-quo order was passed on 08.04.2024, 9th April, 2024 was a holiday on account of 1st Navratra, 10th April, 2024 was Eid and 11th April, 2024 was declared as holiday on account of Eid, so the appellant could not submit the bond/ undertaking as directed by the learned Tribunal. He submits that the appellant is otherwise ready to submit the undertaking.

6. Keeping in view the facts of the case, without issuing notice in the matter and keeping the matter pending, we are of the view that it would be just and appropriate to dispose of the appeal in the following terms.

7. We allow this appeal and permit the appellant to execute the bond to the tune of Rs. 10 lakhs before the Special Tribunal in terms of order dated 08.04.2024 to the satisfaction of the Assistant Registrar of Tribunal, within three days i.e., by 9th May, 2024. However, we make it clear that in case the appellant fails to execute the undertaking by or before 9th May, 2024, the status-quo order passed by the Tribunal 08.04.2024 shall be deemed to have been vacated. It is also directed that till 9th May, 2024, the parties are directed to maintain status-quo on spot.

8. With the aforesaid observations, the appeal is disposed of.