
(2021) 06 J&K CK 0009
In the Jammu And Kashmir High Court
Case No : Writ Petition (C) No. 1065 Of 2021

Sajad Ahmad Magray

APPELLANT

Vs

Commissioner And Others

RESPONDENT

Date of Decision : 03-06-2021

Acts Referred:

Jammu And Kashmir Municipal Corporation Act, 2000 — Section 244

Citation : (2021) 06 J&K CK 0009

Hon'ble Judges : Pankaj Mithal, CJ; Vinod Chatterji Koul, J

Bench : Division Bench

Advocate : Sheikh Mushtaq Ahmad, Moomin Khan

Final Decision : Disposed Of

Judgement

1. Heard Mr. Sheikh Mushtaq, learned counsel for the petitioner and Mr. Moomin Khan, learned counsel for Srinagar Municipal Corporation.
2. The petitioner by the medium of this petition has challenged the order dated 27.05.2021 passed by the J&K Special Tribunal, Srinagar, whereby his application for interim relief in the pending case has been rejected holding that no good ground has been made out for grant of interim protection.
3. It appears from the facts of the case that the petitioner was given a show cause notice on 13th March, 2021 regarding alleged unauthorized construction and finally on 16.03.2021 an order directing to demolish/ pull down the structure within seven days was passed. This order was impugned before the J&K Special Tribunal, Srinagar.
4. It was submitted before the Tribunal that the petitioner was simply repairing the old roof of the house which was an old construction and, therefore, no permission was required for it.

5. Section 244 of the Jammu & Kashmir Municipal Corporation Act, 2000, in unequivocal terms provide that every person who intends to repair any building is required to obtain a permission from the authority. The petitioner for the purposes of repairing or replacing the roof has not obtained any such permission. Moreover, the notice issued to him mentions that the petitioner has undertaken the construction of plinth without permission meaning thereby that he is raising a new construction. The petitioner has obtained the property vide power of attorney dated 16th June, 2020, and as such, the submission that it was an old construction is prima facie not acceptable.
6. In view of the above facts and circumstances, we do not find any illegality on the part of the Special Tribunal in rejecting the application of the petitioner for grant of interim direction. The petitioner may approach the Tribunal for expeditious disposal of the matter and we hope that the Tribunal would do its best to decide the matter expeditiously.
7. The writ petition lacks merit and is disposed of with the above observations.