

(2021) 10 J&K CK 0035
In the Jammu And Kashmir High Court
Case No : Writ Petition (C) No. 2126 Of 2021

Som Kumar

APPELLANT

Vs

Union Territory Of J&K And Others

RESPONDENT

Date of Decision : 04-10-2021

Acts Referred:

Jammu And Kashmir Control Of Building Operations Act, 1988 — Section 7(1), 7(3), 8(1), 13

Citation : (2021) 10 J&K CK 0035

Hon'ble Judges : Pankaj Mithal, CJ;Rajnish Oswal, J

Bench : Division Bench

Advocate : Deepak Mahajan, S. S. Nanda, Adarsh Sharma

Final Decision : Disposed Of

Judgement

1. Heard Sh. Deepak Mahajan, learned counsel appearing for the petitioner, Sh. S. S. Nanda, Sr. AAG and Sh. Adarsh Sharma, Advocate appearing for the respondents.

2. The petitioner by means of this writ petition has challenged the sealing order passed under Section 8(1) of the Jammu and Kashmir Control of Building Operations Act, 1988 (for short the Act of 1988) and also the notices issued under Sections 7(1) and 7(3) of the Act of 1988 dated 03.12.2020 and 11.02.2021 respectively for demolition of alleged constructions i.e. the 1st floor of the dwelling house situated at village Sari Rakwala, District Jammu.

3. Against the notices/orders of demolition passed under Sections 7(1) and 7(3) of the Act of 1988, the petitioner has a remedy to file an appeal before the Jammu and Kashmir Special Tribunal. The petitioner in the said appeal can always pray for de-sealing of the property.

4. In view of the alternative statutory remedy so available to the petitioner, we do not deem it appropriate to exercise our discretionary jurisdiction in the matter.

5. The writ petition accordingly, stands disposed of with liberty to the petitioner to file appeal under Section 13 of the Act of 1988 before the Jammu and Kashmir Special Tribunal and in case any such appeal is filed within a period of one week from today, the same shall be considered on its own merits in accordance with law most expeditiously.