

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) No. 3091/2024
CM No.(8416/2024)

ZAHOOR AHMAD SHEIKH AND ANR

... Petitioner(s)

Through: - Mr.Bhat Fayaz, Advocate.

Vs.

JK SPECIAL TRIBUNAL AND ORS

...Respondent(s)

Through: - Mr.Arfat Rashid Lone, Advocate for
Caveator

CORAM:

HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER
01.01.2025

- 1) The petitioners have challenged order dated 09.12.2024, passed by J&K Special Tribunal, Srinagar in a revision petition filed by respondent No.6 against two building permission orders dated 08.10.2024 and 11.06.2024, issued in favour of the petitioners herein. Vide the impugned order, the aforesaid two building permission orders have been kept in abeyance.
- 2) Issue notice to the respondents.
- 3) Notice be sent to respondent Nos.1 to 5 subject to the petitioners taking necessary steps within a week's time. Shri Arfat Rashid Lone, Advocate who is on caveat has waived notice on behalf of respondent No.6.

4) Heard learned counsel for the parties on the question of grant of interim relief and perused the record.

5) It has been contended by the petitioners that respondent No.6 had filed two civil suits against the petitioners, one for mandatory and permanent injunction in respect of the land which is subject matter of the building permission dated 08.10.2024 and 11.06.2024 and another suit for partition, possession and injunction in respect of the same land, and both these suits were withdrawn by respondent No.6 on the ground that he had settled the matter with the petitioners herein and, as such, he has no grievance against them. It has been submitted that despite unconditional withdrawal of these suits by respondent No.6, he filed a revision petition against the aforesaid two building permission orders before the J&K Special Tribunal, Srinagar alleging therein that the land pertaining to the aforesaid two building permission orders is joint and unpartitioned property of the petitioners and respondent No.6.

6) According to the petitioners the stand taken by respondent No.6 in the revision petition is contrary to his own admission made while withdrawing the two suits unconditionally, but the learned tribunal has while passing the impugned order not only allowed the revision petition but also kept the two building permissions in abeyance.

7) Learned counsel for respondent No.6 on the other hand has submitted that the revision petition is still pending before the Tribunal and it appears that due to some clerical error it has been recorded in the impugned order that the revision petition has been allowed. It has been further submitted that respondent No.6 has never admitted that the land in question has been partitioned.

8) A perusal of the record shows that the two civil suits were withdrawn by respondent No.6 on 30.09.2024 and 25.10.2024 and at the time of withdrawal of the civil suits it was stated by respondent No.6/plaintiff that his grievance stands redressed and he is not having any grudge against the petitioners/defendants. He has also withdrawn the two suits unconditionally, without seeking any leave to file fresh proceedings against the petitioners. The suits have been withdrawn after the issuance of two building permission orders, which prima facie shows that respondent No.6 was in knowledge of the two building permissions and despite this he chose to withdraw the two suits unconditionally. Prima facie, it appears that respondent No.6 has thereafter taken a U-turn and challenged the building permissions by way of revision petition before the Special Tribunal. This raises a question mark about the conduct of respondent No.6. Hence a case for grant of interim indulgence is made out.

9) Accordingly, till next date of hearing and subject to the objections of other side, the impugned order passed by learned Special Tribunal shall remain in abeyance.

10) List on 03.03.2025.

(SANJAY DHAR)
JUDGE

SRINAGAR

01.01.2025

Sarveeda Nissar

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No

