

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH**  
**AT SRINAGAR**

**WP(C) No. 2106/2019**  
**c/w CCP(S) 329/2019**

*Reserved on: 13.05.2026*  
*Pronounced on: 02.06.2026*  
*Uploaded on: 03.06.2026*  
*Whether the operative part or*  
*full judgment is pronounced: Full*

Mohammad Ameen War Age 62 years.  
S/o. Late Ghulam Hussan War  
R/o. House No 43. Chinar Avenue Colony,  
Naseem Bagh Hazrat Bal Srinagar Kashmir

**.....Petitioner**

**Through: Mr. S.H Thakur, Advocate.**

**Versus**

1. State of Jammu and Kashmir through its commissioner cum secretary Housing and Urban Development Department civil secretariat Srinagar/Jammu.
2. Chairman Building operation controlling Authority Municipal Corporation Srinagar Kashmir.
3. Commissioner Municipal Corporation Srinagar Kashmir.
4. Joint Commissioner Municipal Corporation Srinagar Kashmir.
5. Chief Enforcement officer, Building operation controlling Authority Municipal Corporation Srinagar Kashmir
6. Khalafwarzi Officer, Building operation controlling Authority Municipal Corporation Srinagar.
7. Ward officer Ward No. 10 Kashmir. Nagbal Srinagar.
8. Arsheed Ansar Mufti S/o. Mohammad Usman Mufti R/o. Umar Colony Lal Bazar Srinagar Kashmir

**.....Respondents**

**Through: Mr. Bikramdeep Singh, Dy. AG**

**CORAM: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE**

**JUDGMENT**

**BRIEF FACTS:**

1. The petitioner has invoked the writ jurisdiction of this Court seeking quashment of revised Building Permission Order No. 27 of 2019 dated 20.05.2019 issued by the Srinagar Municipal Corporation in favour of private respondent No.8, whereby the alleged deviations committed in the construction raised by the said respondent have been regularized/compounded.
2. Briefly stated, the case of the petitioner is that respondent No.8 was initially granted Building Permission Order No. 2900/2018 dated 01.01.2018 for raising construction over land situated at Chinar Avenue, Naseembagh, Srinagar. According to the petitioner, respondent No.8 thereafter raised construction in substantial deviation from the sanctioned plan, compelling the petitioner and other residents of the locality to repeatedly approach the Municipal authorities seeking action against the unauthorized construction.
3. It is pleaded that upon receipt of complaints, the Srinagar Municipal Corporation initiated

proceedings under the provisions of the J&K Municipal Corporation Act, 2000 and issued demolition notice bearing No. SMC/Enf/4104-10 dated 01.02.2019 through the Chief Enforcement Officer alleging deviations from the sanctioned plan.

4. Aggrieved thereof, respondent No.8 approached the learned J&K Special Tribunal, Srinagar by way of statutory appeal. The petitioner herein also filed caveat as well as an application seeking impleadment before the learned Tribunal. The learned Tribunal vide order dated 28.02.2019 disposed of the matter by directing the parties to approach the Srinagar Municipal Corporation by way of representation and further directed the Corporation to re-examine the matter strictly in accordance with law and regulations governing the subject.
5. Pursuant to the aforesaid directions, the petitioner submitted representation before the Municipal authorities alleging that the deviations committed by respondent No.8 were major and non-compoundable in nature and therefore liable to be demolished. The Srinagar Municipal Corporation, after considering the matter, issued revised Building Permission Order No. 27 of 2019 dated

20.05.2019 in favour of respondent No.8 by invoking Clause 5.8.2(ii)(c) of the Srinagar Building Bye-laws, 2011, holding the deviations to be compoundable.

6. The petitioner has challenged the aforesaid revised permission primarily on the grounds that the authorities lacked jurisdiction to regularize the alleged deviations after issuance and affirmation of demolition notice; that the deviations are substantial and non-compoundable in nature; that no proper hearing was granted to the petitioner; and that the impugned action is arbitrary, illegal and contrary to the Municipal laws and Building Bye-laws governing planned construction.

**SUBMISSIONS ON BEHALF OF THE PETITIONER:**

7. Learned counsel for the petitioner submitted that respondent No.8 raised construction in blatant violation of the sanctioned building plan and despite repeated objections and complaints lodged by the petitioner before the Municipal authorities, the illegal construction activities continued unabated.
8. It is argued that the demolition notice issued by the Srinagar Municipal Corporation having been upheld by the learned Special Tribunal, the

authorities thereafter became functus officio and lacked jurisdiction to subsequently regularize the very same unauthorized construction by issuance of revised Building Permission Order dated 20.05.2019.

9. Learned counsel contended that the revised permission effectively amounts to regularization of nearly ninety percent unauthorized construction, which according to the petitioner is wholly impermissible under the provisions of the Municipal Corporation Act and the Srinagar Building Bye-laws. It is submitted that only minor deviations can be compounded under law and that substantial or deliberate deviations cannot be legalized through the mechanism of compounding
10. Learned counsel further argued that no review or revision proceedings were initiated against the demolition notice and therefore the Municipal authorities could not have reconsidered the matter in absence of any statutory power of review.
11. It is submitted that the petitioner had participated before the learned Special Tribunal and thereafter submitted detailed representation before the Srinagar Municipal Corporation pursuant to the directions issued by the Tribunal. However, according to the petitioner, no meaningful

opportunity of hearing was granted before issuance of the impugned revised permission.

12. Learned counsel further argued that the construction raised by respondent No.8 adversely affects the petitioner's proprietary, residential and privacy rights and also violates the Master Plan, Town Planning regulations and Municipal laws governing planned development.
13. Reliance has also been placed upon various judicial precedents including **Dipak Kumar Mukherjee v. Kolkata Municipal Corporation in WP 13815(W)/2010** decided on **28.07.2010** to contend that illegal constructions adversely affect rule of law and cannot ordinarily be protected merely on account of financial investment or passage of time.
14. It is also argued that the Municipal authorities failed to produce relevant records despite directions issued by this Court and that the conduct of the respondents in permitting continuation of construction during pendency of proceedings amounts to deliberate abuse of statutory powers and contempt of the judicial process.
15. Learned counsel lastly submitted that the writ petition is maintainable notwithstanding existence

of alternate remedy, as the present case involves illegal exercise of statutory powers by public authorities and failure on their part to enforce Municipal laws. It is accordingly prayed that the impugned revised permission be quashed and the respondents be directed to demolish the unauthorized construction.

**SUBMISSIONS ON BEHALF OF RESPONDENTS:**

16. Per contra, Mr. Bikramdeep Singh, learned Dy. AG appearing for the official respondents submitted that the writ petition is not maintainable in view of efficacious alternate statutory remedy available to the petitioner under Section 403 of the J&K Municipal Corporation Act, 2000.
17. It is argued that pursuant to the directions issued by the learned Special Tribunal vide order dated 28.02.2019, the Srinagar Municipal Corporation reconsidered the matter, examined the objections raised by the petitioner and thereafter found the deviations to be compoundable under Clause 5.8.2(ii)(c) of the Srinagar Building Bye-laws, 2011.
18. Learned Dy. AG submitted that against the revised permission dated 20.05.2019, the petitioner had a statutory remedy of revision before the learned

Special Tribunal under Section 403 of the Act, which admittedly has not been availed.

19. It is further argued that the controversy raised by the petitioner involves disputed factual and technical questions relating to the extent of deviations, permissibility of compounding and applicability of the Building Bye-laws, which cannot appropriately be adjudicated in exercise of writ jurisdiction under Article 226 of the Constitution.
20. Learned counsel appearing for private respondent No.8 submitted that the writ petition is wholly misconceived and has been filed only with a view to harass and obstruct lawful construction activities undertaken by respondent No.8.
21. It is argued that respondent No.8 has undertaken construction strictly in accordance with revised Building Permission Order No. 27 of 2019 dated 20.05.2019 and that no impermissible deviation has been committed.
22. Learned counsel submitted that the petitioner had participated before the learned Special Tribunal and had full knowledge of the proceedings culminating in issuance of revised permission dated 20.05.2019. It is further submitted that the revised permission came to be issued only after

reconsideration of the matter by the Municipal authorities pursuant to the directions issued by the learned Tribunal.

23. Learned counsel further submitted that the allegations of collusion, corruption and mala fides levelled against the respondents are bald, defamatory and unsupported by any substantive material on record.

**LEGAL ANALYSIS:**

24. Having heard learned counsel for the parties and perused the record, this Court proceeds to examine the matter.
25. The first and foremost objection raised by the respondents relates to the maintainability of the present writ petition and the locus standi of the petitioner to invoke the writ jurisdiction of this Court.
26. Learned counsel for the respondents argued that the petitioner has failed to show as to how any legal or enforceable right of the petitioner stands violated by issuance of the building permission in favour of the private respondent. It has also been contended that the petitioner has expanded the scope of his grievance by projecting the matter as one affecting the locality and the public at large.

27. This Court has considered the aforesaid submission and perused the material available on record.
28. The record reveals that the dispute regarding the demolition notice and alleged deviations in construction had already been taken before the learned Special Tribunal constituted under the statute.
29. It is not disputed that the petitioner had participated in the said proceedings by filing a caveat and an application seeking impleadment before the learned Tribunal. The learned Tribunal, while disposing of the matter vide order dated 28.02.2019, directed the parties to approach the Srinagar Municipal Corporation by way of representation and further directed the authorities to re-examine the matter strictly in accordance with law.
30. Pursuant to the said directions, the competent authority reconsidered the matter and thereafter issued the impugned order dated 20.05.2019, which is now under challenge in the present writ petition.
31. Learned counsel for the respondents has specifically relied upon Section 403 of the J&K Municipal Corporation Act and argued that the

petitioner had an effective statutory remedy of filing revision before the learned Special Tribunal, which admittedly has not been availed. Since, section 403 of the aforesaid Act is directly relevant and germane to controversy at hand, therefore, same is reproduced hereunder:

***“403. Power of revision. - The Government may at any time, for the purposes of satisfying itself as to the correctness, legality, propriety or regularity of any proceeding or order passed by any officer of the Government or the Commissioner or any officer subordinate to him, call for and examine the record and may pass such order with reference thereto as it may think fit.”***

32. It is well settled that where a statute provides a complete mechanism for redressal of grievances, ordinarily the High Court should refrain from exercising writ jurisdiction under Article 226 of the Constitution.

33. The Hon'ble Supreme Court in case titled **Thansingh Nathmal v. A. Mazid, Superintendent of Taxes reported as 1964 SCR (6) 654** has observed as under:

***"The jurisdiction of the High Court under article 226 of the Constitution is couched in wide terms and the exercise thereof is not subject to any restrictions except the territorial restrictions which are expressly provided in the article. But the exercise of the jurisdiction is discretionary; it is not exercised merely because it is lawful to do so. The very amplitude of the jurisdiction demands that it***

***will ordinarily be exercised subject to certain self-imposed limitations. Resort to that jurisdiction is not intended as an alternative remedy for relief which may be obtained in a suit or other mode prescribed by statute. Ordinarily the court will not entertain a petition for a writ under article 226, where the petitioner has an alternative remedy, which, without being unduly onerous, provides an equally efficacious remedy. Again the High Court does not generally enter upon a determination of questions which demand an elaborate examination of evidence to establish the right to enforce which the writ is claimed. The High Court does not therefore act as a court of appeal against the decision of a court or tribunal, to correct errors of fact, and does not by assuming jurisdiction under article 226 trench upon an alternative remedy provided by statute for obtaining relief. Where it is open to the aggrieved petitioner to move another tribunal, or even itself in another jurisdiction for obtaining redress in the manner provided by a statute, the High Court normally will not permit, by entertaining a petition under article 226 of the Constitution, the machinery created under the statute to be by-passed, and will leave the party applying to it to seek resort to the machinery so set up”.***

34. In the considered opinion of this Court, the aforesaid principle squarely applies to the present case. The petitioner had an effective statutory remedy available before the learned Special Tribunal under the provisions of the J&K Municipal Corporation Act 2000. Instead of availing the said remedy, the petitioner has directly approached this Court by way of the present writ petition. Permitting such course would amount to bypassing the statutory mechanism specifically created under the Act for adjudication of such disputes.

35. The Hon'ble Supreme Court in **Authorised Officer, State Bank of Travancore v. Mathew K.C.** reported as (2018) 3 SCC 85 held that:

*"The discretionary jurisdiction under Article 226 is not absolute but has to be exercised judiciously in the given facts of a case and in accordance with law. The normal rule is that a writ petition under Article 226 of the Constitution ought not to be entertained if alternate statutory remedies are available, except in cases falling within the well-defined exceptions as observed in CIT v. ChhabilDass Agarwal [(2014) 1 SCC 603]... where the statutory authority has not acted in accordance with the provisions of the enactment in question, or in defiance of the fundamental principles of judicial procedure, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of the principles of natural justice,"*

36. This Court finds that no exceptional circumstance has been demonstrated by the petitioner warranting interference in exercise of extraordinary writ jurisdiction. Neither any patent lack of jurisdiction nor any gross violation of principles of natural justice has been established so as to justify bypassing the statutory remedy available under law.
37. It is specific case of the petitioner that the respondents have taken contradictory stand by questioning the locus standi of the petitioner on one hand and simultaneously, raising the objection of alternate remedy on the other.
38. This Court does not find any merit in the aforesaid contention. The objection regarding locus standi

and the objection regarding maintainability on account of alternate remedy are separate and independent legal objections raised by the respondents. Merely because both objections have been raised together does not render the stand of the respondents contradictory.

39. Even assuming that the petitioner has sufficient locus as a neighbouring resident, still the petitioner was required to avail the statutory remedy available under the Act before invoking the writ jurisdiction of this Court.
40. In the considered view of this Court, the petitioner cannot be permitted to circumvent the statutory forum and directly invoke writ jurisdiction when the statute itself provides a complete adjudicatory mechanism for redressal of such grievances and which mechanism has already been followed by the petitioner in first round of litigation by participating in the proceedings before the learned special tribunal.
41. Therefore, the submission advanced by learned counsel for the petitioner in this regard is found to be devoid of merit and liable to be rejected.
42. The petitioner has vehemently argued that the deviations committed by the private respondent are major and non-compoundable in nature and,

therefore, could not have been regularized by the authorities. On the other hand, the respondents have asserted that the deviations are minor in nature and have been compounded within the permissible limits under law.

43. This court is of the considered view that adjudication of these claims would necessarily require examination of sanctioned building plans, nature and extent of deviations, measurements, technical reports and factual verification on spot.
44. This Court, while exercising jurisdiction under Article 226 of the Constitution, cannot adjudicate such disputed factual and technical questions as has been held by this court in catena of judgments.
45. In this regard, this Court finds substantial merit in the reliance placed by learned counsel for the respondents upon the judgment rendered by this Court in ***Building Operation Controlling Authority (BOCA) v. Nageen Ara, OWP No. 90/2019*** decided on **29.08.2023**, wherein it was held :

***“23. The issue whether this court while exercising the power as a writ court can go into the questions of fact is no more res integra and can't assume the role of an appellate authority by re-appreciating the evidence to ponder as to what sort of violation has been committed in raising of construction, whether it was minor or major in nature, whether it was pre-sanctioned plan or revised plan. All these things can well be considered and appreciated by the***

***Tribunal which can go into questions of fact after thorough enquiry. In the instant case, the Tribunal, after a thorough enquiry, has drawn the conclusions on a question of fact and recorded the finding about the nature of violation and regularize it under law by compounding the same. In my view, the Tribunal is fully competent to compound the violation keeping in view its nature and this court while exercising the writ jurisdiction cannot upset the findings of the Tribunal based on appreciation of evidence. As a matter of fact, strictly speaking, the writ jurisdiction of the court cannot be invoked in such like matters as the dispute in question relates to a question of fact i.e whether the violation is minor or major and according to my view, the Tribunal is a final arbiter in such like matters. It goes without saying that the writ jurisdiction is invoked mainly where fundamental rights are infringed and for violating of legal rights too, such jurisdiction may be invoked only in the eventuality, where the alternate remedy is not available. In the instant case, alternate remedy which has already been availed on a disputed question of fact before the Tribunal which after appreciation of all the material facts and evidence on record has recorded the finding and thus the writ jurisdiction in the peculiar facts and circumstances, cannot be invoked against the said order.”***

46. This Court is persuaded to hold that the principle laid down in the aforesaid judgment squarely applies to the facts of the present case, as the controversy raised by the petitioner involves disputed questions relating to the extent and nature of alleged deviations, which can appropriately be examined only by the competent statutory forum.
47. This Court finds considerable merit in the submission advanced on behalf of the official respondents that the present controversy primarily involves determination of disputed factual and

technical issues relating to the extent of deviations, permissibility of compounding and applicability of the relevant Building Bye-laws and municipal regulations and thus, this court has no hesitation in holding that in such like matters, the writ petition is not the remedy under law as the remedy lies elsewhere.

48. The official respondents have specifically pleaded that the deviations were examined by the competent authority pursuant to the directions of the learned Special Tribunal and were found compoundable under Clause 5.8.2(ii)(c) of the Srinagar Building Bye-laws, 2011. This Court also finds merit in the contention that the learned Special Tribunal constituted under the J&K Municipal Corporation Act functions as the specialized statutory forum for adjudication of disputes relating to building permissions, demolition notices and compounding of deviations. The statutory framework itself provides remedy of revision under Section 403 of the Act against orders passed by the Municipal authorities.
49. A Division Bench of this Court in similar facts and circumstances in case titled as **“Abdul Qayoom Dar vs Union Territory Of Jk & Ors”** in

**LPA No. 76/2020** decided on **01.12.2021** has

**held that:**

*“16. Notwithstanding the above, the writ petition was not maintainable otherwise also for the simple reason that the building permission, if any, granted to a person is revisable by the Government in exercise of its power under Section 403 of the J&K Municipal Corporation Act 2000. The aforesaid provision reads as under:-*

*17. “403. Power of revision. - The Government may at any time, for the purposes of satisfying itself as to the correctness, legality, propriety or regularity of any proceeding or order passed by any officer of the Government or the Commissioner or any officer subordinate to him, call for and examine the record and may pass such order with reference thereto as it may think fit.”*

*.The aforesaid provision empowers the Government to revisit the correctness, legality, propriety of any order passed by any officer of the Government or the Commissioner or any officer subordinate to him. The permission granted by the competent authority is in the shape of an order passed by the competent authority i.e., on behalf of the Commissioner, Srinagar Municipal Corporation, and, as such, is clearly revisable in nature. The Commissioner in context with the Act means the Municipal Commissioner under the Act.*

*18. Section 3 of the J&K Special Tribunal Act, 1988, provides that where an appeal, revision or review petition lies to the Government, it shall be presented to the Tribunal and that any reference to the Government shall be construed as a reference to the tribunal. Therefore, the power of revision exercisable by the Government under Section 403 of the J&K Municipal Corporation Act 2000 is exercisable by the Special Tribunal in accordance with Section 3 of the J&K Special Tribunal Act 1988. In view of the above, any challenge to the building permission granted by the competent authority i.e., the Srinagar Municipal Corporation is revisable by the State Government i.e., the J&K Special Tribunal. Accordingly, in the light of the above remedy available to the appellant, the writ petition filed by him directly before this Court MOHAMMAD ALTAF NIMA 2021.12.06 11:30 LPA I attest to the No. and integrity of this document challenging the permission granted was not entertainable. The remedy of revision thereunder is not said to be illusory or ineffective. Therefore, in the facts and circumstances, if the writ court has dismissed the writ petition for one reason or the other, as the same was not maintainable in law, we do not deem it proper to interfere with the*

***impugned judgment and order and the appeal is dismissed with liberty to the appellant to avail the alternative remedy of revision as pointed out above.”***

50. This Court is of the considered view that once the statute provides a complete adjudicatory mechanism including appellate and revisional remedies, ordinarily the writ Court ought not to bypass such statutory forum and undertake factual adjudication in exercise of extraordinary jurisdiction under Article 226 of the Constitution.
51. The Hon'ble Supreme Court in the case of **M.P. Power Management Co. Ltd. v. Sky Power Southeast Solar India (P) Ltd., (2023) 2 SCC 703**, held that:

***“Again, the question as to whether the writ petitioner must be told off the gates, would depend upon the nature of the claim and relief sought by the petitioner, the questions, which would have to be decided, and, most importantly, whether there are disputed questions of fact, resolution of which is necessary, as an indispensable prelude to the grant of the relief sought. Undoubtedly, while there is no prohibition, in the writ court even deciding disputed questions of fact, particularly when the dispute surrounds demystifying of documents only, the Court may relegate the party to the remedy by way of a civil suit.”***

52. Tested on the touchstone of the law laid down in judgment supra this court is of the considered view that, the issues projected in the instant petition are best left to the adjudication of the competent statutory authority constituted under the Act.

53. The next contention raised by the petitioner is that no effective opportunity of hearing was granted before issuance of the impugned order.
54. The court after examining the record clearly demonstrates that the petitioner had participated in the proceedings before the learned Tribunal by filing a caveat as well as an application for impleadment. The learned Tribunal itself directed the petitioner to submit a representation before the Municipal authorities for consideration of his grievance.
55. The respondents have specifically pleaded that the representation submitted by the petitioner was considered by the competent authority before issuance of the revised building permission.
56. Upon the consideration of the matter, this Court is persuaded to hold that the facts of the present case do not disclose any such gross or patent violation of principles of natural justice so as to justify bypassing the statutory remedy available under the Act.
57. The petitioner had adequate knowledge of the proceedings and had participated before the learned Tribunal and had also submitted representation before the competent authority pursuant to the directions issued by the Tribunal

and thus the plea raised by the petitioner that he has not been given an opportunity of being heard before passing the impugned order is fit of his own imagination and contrary to record and is liable to be rejected outrightly.

58. The petitioner has also levelled allegations of mala fides, collusion and corruption against the official respondents as well as the private respondent while challenging the impugned order.
59. It is settled law that allegations of mala fides are required to be pleaded with full particulars and supported by cogent material and shouldn't be evasive.
60. In the present case, except making general and sweeping allegations of collusion and corruption, the petitioner has not placed on record any substantive material to prima facie establish mala fides on the part of the respondents.
61. Mere bald assertion of bias cannot be made basis for invoking the extraordinary writ jurisdiction of this Court.
62. Thus, the allegations made by the petitioner are bald and omnibus in nature and are not supported by any cogent material.
63. Learned counsel for the petitioner also argued that once the demolition notice had been issued and the

interim protection granted by the learned Tribunal stood vacated, the authorities could not thereafter regularize the alleged deviations committed by the private respondent.

64. Per contra, learned counsel for the respondents, submitted that under Section 255 of the J&K Municipal Corporation Act, the competent authority is vested with the power to compound deviation in accordance with the statutory framework.

65. Section 255 of the J&K Municipal Corporation Act reads as under:

***“255. Power of the Government to give directions for compounding deviations from sanctioned plan Without prejudice to the provisions contained in this Act, the Government may, from time to time, give such special or general directions in the matter of policy in relation to the compounding of the cases involving deviations from the sanctioned plan as in its opinion are required to be followed by the Commissioner for compounding such cases under sub-section (5) of section 254 of this Act.*”**

66. A plain reading of the aforesaid provision makes it clear that the statute itself contemplates compounding of deviations from the sanctioned plan in accordance with the policy directions issued by the Government under the Act.

67. This Court is of the view that the question as to whether the deviations in the present case were compoundable or otherwise, whether the authority

has correctly exercised powers under Sections 255 of the Act and whether the revised permission issued in favour of the private respondent conforms to the statutory mandate are matters which fall within the jurisdiction of the competent statutory authority.

68. Further this court in case titled **Noor Mohammad Dar vs Srinagar Municipal Corporation through Commissioner** in **WP(C) 1499/2024** decided on **12.08.2025** has observed :

*“51 This Court while deciding the aforesaid matter, was of the view that the High Court does not have any mechanism or yardstick to go into the question of fact by conducting a roving enquiry with respect to the fact whether there is any minor or major violation. The Court while exercising the powers under the writ jurisdiction, cannot re-appreciate the evidence by exercising the powers by way of an appellate authority to go into the disputed questions of fact, which have been arrived at by the learned Tribunal after appreciating all the material facts on record The Tribunal being the final arbiter in such like matters and it goes without saying that writ jurisdiction is invoked mainly when fundamental rights are infringed and in violation of legal rights too, such jurisdiction may be invoked only in the eventuality, where the alternate remedy is not available. In the instant case, alternate remedy which has already been availed on a disputed question of fact before the Tribunal which after appreciation of all the material facts and evidence on record has recorded the finding and thus the writ jurisdiction in the peculiar facts and circumstances, cannot be invoked against the said order.”*

69. In the present case, the controversy projected by the petitioner relates to the nature and extent of alleged deviations, permissibility of compounding and legality of regularization granted by the

Municipal authorities, all of which involve disputed factual and technical issues requiring examination of sanctioned plans, measurements, building parameters and other technical material. Such issues cannot appropriately be adjudicated in exercise of writ jurisdiction under Article 226 of the Constitution .More particularly, when the statute itself provides an efficacious mechanism before the learned Special Tribunal for adjudication of such grievances.

70. This Court after examining the entire record and rival contentions holds that the present proceedings arise out of an individual dispute between neighbouring parties relating to construction raised by the private respondent and cannot be treated as a proceeding instituted for enforcement of any larger public cause. The grievance projected by the petitioner primarily pertains to alleged deviations in the construction raised by the private respondent adjoining the petitioner's property and the alleged prejudice caused thereby to the petitioner in his individual capacity. Merely because the petitioner has referred to Master Plan, Municipal Laws and alleged public rights does not convert the

individual private dispute into a matter of public interest.

71. From the tenor of the pleadings and the sequence of events placed on record, it also appears that the litigation has been pursued primarily in the backdrop of personal *vindicta* and disputes relating to the construction activities undertaken by the private respondent. The record further reveals that despite repeated allegations regarding large-scale public impact, no other resident of the locality has approached the authorities seeking similar relief.

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72. Insofar as the prayer of the petitioner seeking initiation of contempt proceedings against the official respondents and private respondent is concerned, the same also does not accept merit in the facts and circumstances of the present case.
73. Learned counsel for the petitioner has argued that despite issuance of demolition notice and despite pendency of proceedings before the learned Special Tribunal as well as this Court, the private respondent continued with the construction activities under the patronage and active connivance of the official respondents and thereby committed willful disobedience of the orders passed

by the learned Tribunal and this Court. It has further been argued that once the demolition notice had been issued and the matter was pending adjudication, the respondents were under a statutory as well as legal obligation to prevent continuation of the construction and enforce the demolition proceedings in accordance with law.

74. This Court has carefully considered the aforesaid submission and perused the material available on record.

75. The record reveals that the learned Special Tribunal vide order dated 28.02.2019 did not finally uphold or affirm the demolition notice but instead directed the parties to approach the Srinagar Municipal Corporation by way of representation and further directed the authorities to re-examine the issue strictly in accordance with law and regulations governing the subject. Pursuant thereto, the competent authority reconsidered the matter, examined the representations submitted by the parties and thereafter, issued revised Building Permission Order No. 27 of 2019 dated 20.05.2019 in favour of private respondent No.8.

76. It is further borne out from the record that this Court vide order dated 25.06.2019 permitted

respondent No.8 to raise construction strictly in accordance with the building permission granted by the competent authority. The respondents have specifically pleaded that the subsequent construction activities were undertaken pursuant to the revised permission so granted.

77. In view of the aforesaid factual position, it cannot be said that the respondents acted in deliberate, intentional or willful disobedience of any subsisting judicial order so as to attract contempt jurisdiction. Whether the revised building permission dated 20.05.2019 was legally sustainable, whether the deviations were rightly compounded and whether the competent authority acted in accordance of the provision of J&K Municipal Corporation Act and the By-Laws are matters which remain disputed and require adjudication on merit before appropriate forum.
78. The contempt jurisdiction of this Court is limited in scope and cannot be invoked for determination of seriously disputed questions of fact or for adjudicating legality and correctness of administrative or statutory actions which otherwise require independent examination on merits in appropriate proceedings. Mere existence of rival claims regarding legality of construction or validity

of compounding would not ipso facto constitute civil contempt unless there exists clear, unequivocal and willful violation of a binding judicial direction.

79. The Hon'ble Supreme Court in the case titled **Chaduranga Kanthraj Urs and others vs P Ravikumar and others reported as 2024 LiveLaw (SC) 971** held that:

***“This Court exercising contempt jurisdiction would not enter into question which have not been dealt with and decided in the judgment or order, violation of which is complained by the applicant. This Court will consider whether the direction issued in the judgment or order is complied in true sense or in its letter and spirit and would not embark upon the journey of examining as to what the judgment or order should have contained. The primary concern would be as to whether there has been deliberate default or if there is any ambiguity in the directions issued therein, in which event it would be better to direct the parties to approach the court which disposed of the matter for clarification instead of clutching the contempt jurisdiction.”***

80. The Hon'ble Supreme Court in the judgment supra has clearly held that while exercising contempt jurisdiction, the Court cannot travel beyond the scope of the original order or undertake adjudication of issues which were neither conclusively determined nor specifically directed in the judgment alleged to have been violated. The contempt court is only required to examine whether there exists deliberate and willful

disobedience of a clear and unequivocal direction issued by the Court.

81. This Court has no hesitation in holding that no material has been placed on record to establish any willful or deliberate disobedience on the part of the respondents of any specific order passed either by the learned Special Tribunal or by this Court.
82. Accordingly, the proceeding in the instant contempt petition shall stand closed and rule if any shall stand discharged. The contempt petition is disposed of.

**CONCLUSION:**

83. For the reasons discussed hereinabove, this Court is of the considered opinion that the petitioner had an efficacious statutory remedy available under the provisions of the J&K Municipal Corporation Act before the learned Special Tribunal against the revised Building Permission Order No. 27 of 2019 dated 20.05.2019. The petitioner, however, chose to bypass the statutory mechanism and directly invoke the extraordinary writ jurisdiction of this Court.
84. This Court further finds that the controversy projected in the present petition involves seriously disputed factual and technical issues relating to

the nature and extent of the alleged deviations, permissibility of compounding, applicability of the Building Bye-laws and legality of the revised building permission granted by the Srinagar Municipal Corporation. Determination of such issues would necessarily require examination of technical material, sanctioned plans, measurements and factual evidence. Such disputed questions are not amenable to adjudication in writ jurisdiction under Article 226 of the Constitution.

85. This Court also finds that no exceptional circumstance has been established by the petitioner warranting interference despite availability of an effective statutory remedy. The plea of violation of principles of natural justice is also without merit as the petitioner had participated in the proceedings before the learned Special Tribunal, had filed a caveat and impleadment application and had also submitted representation before the Municipal authorities pursuant to the directions issued by the learned Tribunal.

86. The allegations of mala fides, collusion and corruption levelled against the official respondents as well as the private respondent are bald, omnibus and not supported by any cogent

material. Mere suspicion or apprehension cannot constitute a valid foundation for exercise of extraordinary writ jurisdiction.

87. This Court is also of the view that the present dispute essentially arises from objections raised by the petitioner regarding the construction undertaken by the private respondent who happens to be the neighbour of the petitioner. Merely referring to planning laws, municipal regulations or public rights does not convert an individual dispute into a matter of public interest and even if it is so, the petitioner cannot project public interest in the writ petition preferred by him in his individual capacity and right as the instant petition is not filed in public interest. The controversy is required to be examined within the statutory framework of the J&K Municipal Corporation Act and the remedies provided thereunder.
88. Thus in the backdrop of what has already been discussed hereinabove, this Court holds that the remedy in the peculiar facts and circumstances lies elsewhere which the petitioner has not availed and writ petition challenging the revised building permission issued by the Srinagar Municipal

Corporation is devoid of any merit and deserves dismissal as the same is not maintainable.

89. For the foregoing reasons, this Court finds no merit in the writ petition. The same is accordingly dismissed along with all connected applications. Consequently, the contempt petition shall also stand and disposed of.
90. It is, however, clarified that dismissal of the present writ petition shall not preclude the petitioner from availing such statutory remedy as may be available to him under law before the competent forum.
91. There shall be no order as to costs.

**(Wasim Sadiq Nargal)**  
**Judge**

**Srinagar:**  
03.06.2026  
"Sakeena"

*Whether the order is speaking: Yes*  
*Whether approved for reporting: Yes*