S. No.28
Regular List

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

WP(C) 920/2023 CM(2151/2023)
CCP(S) No. 189/2024
in [WP(C) 920/2023] CM(398/2026)

GHULAM MOHI-UD-DIN MALIK AND OTHERS

…..Petitioner(s)

Through: Mr.Feroz Ahmad Sheikh, Advocate

V/s

UT of J&K AND ORS

… ..Respondent(s)

Through : Mr. Bikramdeep Singh, Dy.AG

CORAM:

HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER

16.11.2026

1. The petitioners through the medium of present petition have sought a direction upon the respondents restraining them from causing any kind of interference in the construction activities being carried out by them on their land situated at Pandach Tehsil Ganderbal.

2. According to the petitioners, in the year 2016, they had applied for grant of building permission before respondent No.2. The case was processed for grant of requisite permission and accordingly necessary NOCs from different departments, including Power Development Department and Housing and

Urban Development, were sought. The requisite NOCs were granted, but due to abnormal situation in the valley the petitioners could not pursue the matter.

3. It has been submitted that after the improvement in situation post Covid-19 pandemic, the petitioners again approached respondent No.2 with an application for grant of building permission, but the same was not processed by the respondents. It has been contended that the respondents were under a legal obligation to consider the building permission case of petitioners within a period of 60 days and once they have failed to do so, the building permission is deemed to have been sanctioned in favour of the petitioners, as contemplated in Section 247 of Municipal Corporation Act and the provisions of J&K Unified Building Bye-Laws.

4. It has been submitted that the petitioners were under the impression that the building permission is deemed to have been sanctioned in their favour, as such, they collected the construction material on site, but the respondents without any justifiable grounds caused obstruction in raising of construction on spot. It has been submitted that once by operation of law, the building permission is deemed to have been issued in favour of the petitioners, the respondents cannot stop them from raising construction on spot.

5. At the time of issuing notice to the respondents, this Court directed the respondents to take a decision with regard to the application of the petitioners for grant of building permission. When the respondents did not take any decision, the petitioners filed the connected contempt petition before this Court. In the said contempt petition the respondents have filed their compliance report.

6. In the compliance report it has been submitted that building permission in favour of the petitioners was processed in the year 2016 vide No.3732 dated 29.03.2016 for construction of ground + three storied Guest House with stilt parking in ground floor. It has been submitted that the case was uploaded for NOCs through previous online mode, but Srinagar Development Authority did not grant NOC on the ground that the drawings/proposal submitted by the petitioners does not conform to the Master Plan norms. It has been further submitted that building permission case of the petitioners was rejected by the competent authority and a notice dated 17.02.2022 came to be issued to the petitioners in this regard.

7. The respondents have further submitted that pursuant to interim order dated 26.04.2023, the petitioners were supposed to submit a fresh application for building permission through online portal but he has not moved any such application. The

petitioners have filed response to the compliance report filed by the respondents in which it has been submitted that the petitioners have filed fresh application for grant of building permission through online mode on 01.08.2025.

8. I have heard learned counsel for the parties and perused record of the case.

9. The case of the petitioners in short is that they had applied for grant of building permission in the year 2016 but because the respondents failed to take a decision in the matter within the stipulated period of 60 days, as such, in terms of Section 247 of the Municipal Corporation Act and the provisions of J&K Unified Building Bye-Laws, it is to be deemed that the building permission has been granted in favour of the petitioners.

10. In the writ petition itself, the petitioners have clearly stated that deemed permission is subject to certain conditions, which include condition with regard to violation of planned development of UT of J&K as envisaged by various departments and Departmental Agencies, such as Municipal Council Committee, Development Authority, Jal Shakti Department, UEED etc. as applicable, violation of zoning regulations under the Master Plan, violation of the land use of area, violation of FAR and setback norms, violation in respect of alignment of

Green Belt and effect on the right of the adjacent plot holder, as also the title of the land should be free from any dispute.

11. In the present case, the respondents have clearly stated that when the building permission case of petitioners was processed, the development authority has refused to furnish NOC on the ground that the drawings/proposal submitted by the petitioners does not conform to the Master Plan norms. Once the development authority has not furnished the NOC, the provision with regard to deemed sanction of building permission would not get attracted. It is clearly laid down that deemed sanction would not apply in case the proposed construction violates planned development as envisaged by various agencies, including development authorities. Since the development authority in the present case has not furnished its NOC, as such the deeming provision would not be attracted.

12. Apart from the above, the respondents have specifically stated that building permission application of the petitioners was rejected and the same was conveyed to the petitioners vide communication dated 17.02.2022. Therefore, the petitioners cannot claim that building permission in their favour is deemed to have been granted when there is a specific order for rejection of permission.

13. For the foregoing reasons, I do not find any merit in this writ petition. The same is, accordingly, dismissed. Notwithstanding the dismissal of the present writ petition, the respondents are at liberty to consider fresh application of the petitioners for grant of building permission, which as per their pleadings, has been submitted by them before the respondents/Corporation on 01.08.2025.

(SANJAY DHAR)
JUDGE

SRINAGAR
16.11.2026
Sarveeda Nissar

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

Sarveeda Nissar
I attest to the accuracy and
authenticity of this document
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