

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU**

(Through Video Conference)

EMG-WP(C) No. 30/2020
EMG-CM Nos. 65/2020 &
66/2020

Chander Mohan Sharma

.....Petitioner (s)

Through :- Mr. B. S. Salathia, Sr. Advocate with
Mr. Bhanu Singh Salathia, Advocate
(on Voice Call from residence in Jammu)

V/s

Union Territory of Jammu &
Kashmir and others

.....Respondent(s)

Through :- Mr. Sachin Gupta, Advocate for
respondent Nos. 3, 4, 5 and 6
(on Voice Call from residence in Jammu)

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

ORDER
26.05.2020

EMG-CM No. 65/2020

The instant application has been filed by the petitioner seeking extension of time for filing the affidavit, stamp and court fee etc in support of writ petition. For the reasons stated in the application, the same is **allowed**.

The petitioner shall do the needful within a period of three days from the opening of lockdown.

Application is, accordingly, **disposed of**.

EMG-WP(C) No. 30/2020 & EMG-MP No. 66/2020

Notice.

In the first half, Mr. Sachin Gupta, Advocate appearing for respondent Nos. 3, 4, 5 & 6 accepts notice. He seeks some short time to file the objections. Time is granted.

The matter will be taken up today again at 3.00 P.M.

The matter was taken up at 3.00 P.M. Mr. Sachin Gupta, Advocate appearing on behalf of respondent Nos. 3, 4, 5 and 6 has filed the objections. The stand taken by the contesting respondents is that the Building Operation Controlling Authority, Jammu Municipal Corporation vide order dated 08.05.2020 under the provisions of Section 7(3) of the J&K Control of Building Operation Act, 1988 (for short the Act) has passed the demolition order with regard to the violations in the building of the petitioner and prior to that notice under section 7(1) of the Act was also affixed at the building.

Mr. B. S. Salathia, learned senior counsel for the petitioner disputes and denies the receipt of notice under section 7(1) of the Act as well as passing of the order under section 7(3) of the Act and he further submits that the petitioner has come to know about the passing of the order dated 08.05.2020 passed under section 7(3) of the Act only today when the objections were filed by the respondents 3 to 6.

At this stage, Mr. Bhanu Singh Salathia, learned counsel appearing for the petitioner seeks withdrawal of the writ petition with liberty to approach the Jammu and Kashmir Special Tribunal, Jammu by filing an appeal against order dated 08.05.2020 latest by 01.06.2020. He also intends to explore appropriate remedy against the order of sealing dated 14.05.2020.

Mr. Gupta appearing for the respondents 3, 4, 5 and 6 is not averse to the submissions made by the petitioner.

Without commenting upon the merits of the case, this petition is disposed of as withdrawn by the petitioner with liberty to the petitioner to approach the Jammu and Kashmir Special Tribunal, Jammu latest by 01.06.2020.

Till then the respondents shall not undertake any demolition of the building, that is, subject matter of the writ petition. Simultaneously, the petitioner shall not make any attempt to alter the construction existing on spot. In case the petitioner fails to avail the appropriate remedy within the period mentioned above, the respondents shall be at liberty to proceed in accordance with law. In the event, any appeal is preferred by the petitioner, the Appellate Authority shall decide the same in accordance with law and without being influenced in any manner with regard to any observation made by the Court in this order.

Ordered accordingly.

Disposed of along with connected CMs.

(RAJNESH OSWAL)
JUDGE

Jammu
26.05.2020
(Rakesh)

Whether the order is speaking	:	NO
Whether the order is reportable	:	NO