



Supplementary List-III

Serial No. 191

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

WP(C) No. 3765/2025
CM No. 8574/2025
CM No. 8575/2025

Date of pronouncement : 29.12.2025
Uploaded on : 07.01.2026

Royal Omkar Nests Private
Limited & Anr.

....Petitioners

Through:- Mr. Amit Gupta, Sr. Advocate with
Mr. Sumit Moza, Advocate.

V/s

Sandeep Kumar & Ors.

.....Respondents

Through:- Mr. Navyug Sethi, Advocate.

**CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
JUDGMENT (ORAL)**

01. The petitioner No. 1 - Royal Omkar Nests Private Ltd., is a promoter of real estate project, namely, **“Royal Nest Sapphire”** located at Dilli Kunjwani Bye Pass, Jammu and is coming forward with institution of present petition through the petitioner No. 2 – Vimal Kumar duly authorised person.

02. Fourteen (14) respondents herein are said to be the holders of the flats in the aforesaid “Royal Nest Sapphire Apartment”, who came to lodge a complaint under section 31



of the **Real Estate (Regulation and Development) Act, 2016** on file No. **JKRERA/2025/01** dated **31.01.2025** before the Jammu & Kashmir Real Estate Regulatory Authority (in short, “**JKRERA**”).

03. In their said complaint, the respondents came to enlist **(i)** to **(xiii)** heads of purported grievances related to the “Royal Nest Sapphire Apartment”.

04. The petitioner No. 2 was put to notice in the said complaint by the JKRERA and which came to be contested by the petitioners.

05. The respondents’ complaint came to be *disposed of* in terms of an order dated **21.07.2025** by JKRERA in the following manner and effect:-

“14. Finally, in the course of hearing, as consented the complainants shall brought the defects to the notice of the respondent in writing who in turn conceded that it shall be rectified. So, in the facts of this case and the provisions of law, it is ordered that any of the aggrieved allottee of this project may brought the defects or any other obligation to the notice of respondent and it shall be his duty to rectify it within 30 days. In the event, the respondent fails to rectify the same, the allottee concerned, if so advised, shall be at liberty to approach the Authority or the Adjudicating officer as the case may be for claiming compensation. Without commenting upon the merits of the case, the complaint is disposed of accordingly.”

06. The respondents/complainants feeling aggrieved of the outcome of their said complaint in terms of said order dated **21.07.2025** of JKRERA preferred an appeal before the



appellate tribunal as envisaged under section 44 of the Real Estate (Regulation and Development) Act, 2016.

07. In terms of **S.O. 637** dated **28.12.2023**, the Govt. of UT of Jammu & Kashmir came to designate Jammu & Kashmir Special Tribunal as appellate tribunal for the purposes of Real Estate (Regulation and Development) Act, 2016 till a regular appellate tribunal is constituted in the UT of Jammu & Kashmir.

08. The appeal thus came to be submitted before the Jammu & Kashmir Special Tribunal being an appellate tribunal functioning under Jammu & Kashmir Special Tribunal Act, 1988 in terms whereof the Jammu & Kashmir Special Tribunal has been constituted for presentation of appeals, revisions and review petitions arising under any law made by the legislative assembly of the Union Territory.

09. The institution of the appeal on file No. **STJ/214/2025** came to take place on **18.09.2025** with the repeat of charges as set out in the complaint by the respondents/complainants bearing the status as appellants before the Jammu & Kashmir Special Tribunal.

10. In response to the appeal so filed, the Chairperson of Jammu & Kashmir Special Tribunal came to take



cognizance of the appeal as being single Bench of the Jammu & Kashmir Special Tribunal.

11. In terms of an interim order dated **22.09.2025**, the single Bench of Jammu & Kashmir Special Tribunal comprised of Chairperson came to direct parties to maintain *status quo* on spot with respect to the entire project including the common space and further restraining the petitioner herein from converting the common area into commercial space and from operating or alienating any such space till filing of objections by the respondents on next date of hearing whichever being earlier.

12. The petitioner No. 2 appeared in response to the notice so issued in the appeal and submitted written objections to the entertainability and maintainability of the appeal by and before the single Bench of the Jammu & Kashmir Special Tribunal as against the requirement of section 43(3) of the Real Estate (Regulation and Development) Act, 2016 which provides a Bench of an appellate tribunal to consist of at least one judicial member and one administrative or technical member.

13. The single Bench of Chairperson of Jammu & Kashmir Special Tribunal, by virtue of impugned order dated **04.12.2025** while concurring with the objection of the petitioner No. 2 with respect to the competence of the Bench to



hear the appeal, granted liberty to the respondents /complainants/appellants to file a fresh appeal which then to be assigned to a Bench constituted as in terms of requirement and mandate of section 43(3) of the Real Estate (Regulation and Development) Act, 2016 but till the filing of the said appeal directed *status quo* to continue to be maintained by the petitioners with respect to common areas of the Project with a rider that violation of the order on the part of the petitioner of *status quo* to attract adverse consequences.

14. It is this manner of adjudication which has left the petitioners seriously aggrieved that once the single Bench of Chairperson of Jammu & Kashmir Special Tribunal was lacking inherent jurisdiction to entertain the appeal and as acceded to in the impugned order dated **04.12.2025**, there was then no scope whatsoever left for the single Bench of Chairperson of Jammu & Kashmir Special Tribunal to keep the *status quo* direction in place till filing of fresh appeal by the respondents before a duly constituted appellate Bench.

15. The petitioners have come forward with the present writ petition under article 226 of the Constitution of India simultaneously invoking supervisory jurisdiction under article 227 of the Constitution of India to assail the aforesaid order to the extent it places the *status quo* direction.



16. Mr. Amit Gupta, learned Sr. Advocate arguing for the petitioners submits that very plain principle of law drawn from latin maxim “*coram non iudice*” fully applies to the facts of the case to render the parting direction of the single Bench of Chairperson of Jammu & Kashmir Special Tribunal illegal *per se* after having first come to hold that the appellate tribunal is not duly constituted for which the respondents/complainants, as appellants, were to be given liberty to file a fresh appeal which then to be assigned to a Bench constituted in accordance with section 43(3) of the Real Estate (Regulation and Development) Act, 2016.

17. On the other hand, Mr. Navyug Sethi, learned counsel for the respondents argues to defend the said parting direction of the single Bench of Chairperson of Jammu & Kashmir Special Tribunal stating that it is an innocuous one and shall prejudice petitioners in no manner.

18. After having heard both sides, this Court is of the view that once the single Bench of Chairperson of Jammu & Kashmir Special Tribunal came up with a confirmed realization that the very entertainability and maintainability of the respondents’ appeal by and before the single Bench of Chairperson of Jammu & Kashmir Special Tribunal as an Appellate Tribunal under the Real Estate (Regulation and Development) Act, 2016 was misconceived in the sense being



not qualified to be an appellate tribunal under section 43(3) of the Real Estate (Regulation and Development) Act, 2016, there was no occasion left for the single Bench of Chairperson of Jammu & Kashmir Special Tribunal to come up with any further observation, be it innocuous one or prejudicial one, in favour of either of the two parties and, thus, the impugned observation/direction of the single Bench of Chairperson of Jammu & Kashmir Special Tribunal is nothing but nugatory in the eyes of law which warrants to be quashed and to that extent this Court set-asides the direction of the *status quo* placed upon the petitioners with respect to the common areas of the project as obtaining in order dated **04.12.2025** rest of which is held to be non-questionable as the appeal of the respondents has been held to be not maintainable before the single Bench of Chairperson of Jammu & Kashmir Special Tribunal.

19. In view of the aforesaid, this petition is, accordingly, ***disposed of*** along with connected applications.

(RAHUL BHARTI)
JUDGE

JAMMU
29.12.2025

Bunty

Whether the judgment is speaking: **Yes**

Whether the judgment is reportable: **Yes**