

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CM(M) No. 43/2025

Vaishno Devi

.... Petitioner/Appellant(s)

Through:- Mr. Rohit Kohli, Advocate

V/s

Mohd. Saleem

.....Respondent(s)

Through:-

CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE

ORDER
17.02.2025

1. Petitioner is aggrieved of the order dated 23.01.2025, passed by the learned Chief Judicial Magistrate, Reasi, in case titled "Vaishno Devi v. Mohd. Saleem.
2. Petitioner has filed a suit for permanent prohibitory injunction restraining the defendant, his agents, attorneys from causing any interference or raising any construction over any portion of land measuring 07 kanals bearing Khasra No. 500, situated at Seela, Tehsil and District Reasi.
3. Vide order dated 03.05.2024, the learned court, while issuing notice to the other side has directed the parties to the suit to maintain status quo till next date of hearing.
4. Respondents filed their written statement on 17.10.2024, beyond the statutory period prescribed under Order V and VIII CPC. An application was immediately moved by the petitioner for rejecting/striking out the written statement filed by the respondents.

5. Learned counsel for the petitioner submits that the learned trial court, without deciding the application of the petitioner for rejection/striking off of the written statement, has directed the parties to make submissions on the interim application, and further observed that in case of failure of the parties to make submissions on the interim application, order would be passed by hearing the defendant only.
6. Learned counsel for the petitioner submits that it is incumbent upon the court to first decide the application filed for rejection of written statement. He has submitted the same before the court on 23.01.2025, and the same is recorded in the order, that arguments on interim application cannot be heard without written statement. The trial court without considering the fact that the decision of application of rejecting or accepting written statement has an effect on the decision of the case, has directed both the parties to argue the interim application.
7. It is submitted that the trial court has not considered that the effect of rejection of written statement, hence, if the same is rejected, there is nothing to controvert the plea of the petitioner.
8. Learned counsel for the petitioner submits that impugned order is not sustainable as the court has to first decide the maintainability of written statement before proceedings with arguments on the interim application, and only thereafter, interim application can be considered, or the learned court should have allowed arguments on the interim application by considering the complaint.
9. Having regard to the aforesaid facts and circumstances, no purpose will be served to keep this petition pending, as such, this petition is disposed of with a direction to the respondents to first consider and

decide the application for rejection of the written statement within a period of six weeks' and thereafter, consider and decide the interim application.

10.Disposed of.

(SINDHU SHARMA)
JUDGE

Jammu:
17.02.2025
Vishal

