

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

Case No.:- CR No. 11/2023
CM No. 2083/2023

Girdhari Lal, age 63 yeears
S/o Pukha Ram
R/o H. No. 98-Bhatiyri, Bishnah Adda Jammu, Jammu & Kashmir-181132.
Through Attorney Holder
Preeti Devi, age 27 years
D/o Girdhari Lal
R/o H. No. 98- Bhatiyri, Bishnah Adda Jammu, Jammu & Kashmir-181132.

.....Petitioner(s)

Through: Mr. Mayank Gupta, Advocate.

Vs

1. Mukesh Kumar Sharma
S/o Tilak Ram
R/o Village Kanhal (Lower) Tehsil Bishnah District Jammu.
2. Raj Babber Singh
S/o S. Harnam Singh
R/o Village Phinder R.S. Pura A/p Village Deoli Tibba, Teshil Bishnah District
Jammu.

..... Respondent(s)

Through: None.

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER
02.07.2025

1. The respondent No. 1-Mukesh Kumar Sharma came to file a civil suit on 26.06.2021 before the court of learned Additional District Judge, Jammu naming therein as defendant No. 1 Girdhari Lal-the petitioner herein and the defendant No. 2-Raj Babber Singh-the proforma respondent herein as two defendants.

2. The suit filed by the respondent No. 1 is for specific performance of contract thereby seeking execution of a sale deed in his favour with respect to land measuring 2.15 kanal comprised in khasra No. 1109 min (435 old) situated in village Kanhal, tehsil Bishnah district Jammu with consequential relief of permanent prohibitory injunction restraining the defendants from alienating or changing the nature of the above said suit land.
3. The specific performance has been sought with respect to an agreement to sell dated 24.02.2021 which is alleged to have been executed by the petitioner purportedly acting through his attorney i.e., proforma respondent-Mr. Raj Babber Singh in favour of the respondent No. 1-Mukesh Kumar Sharma.
4. The petitioner is alleged to have constituted the proforma respondent-Mr. Raj Babber Singh as his attorney by virtue of a notarised Irrevocable General Power of Attorney dated 15.02.2021 with respect to land measuring 2.15 kanal comprised in khasra No. 1109 min (435 old) situated in village Kanhal, tehsil Bishnah district Jammu thereby purportedly empowering the proforma respondent to sell, transfer, mortgage, lease, gift, relinquishment and present the corresponding deed/s for registration.
5. The petitioner, upon appearance, instead of filing written statement submitted an application under Order 7 Rule 11 of

the Code of Civil Procedure, 1908 thereby seeking rejection of the plaint on the basis of the legal pleas relatable to the suit as set up in the application.

6. The said application of the petitioner came to be dismissed by the trial court of learned Additional District Judge, Jammu by virtue of an order dated 13.03.2023 against which the petitioner came forward with the present revision petition assailing the impugned order inter alia on the grounds that the impugned order lacks reasoning and without adverting to the legal position on the subject.
7. A bare perusal of the impugned order would bear out the objection of the petitioner that the trial court has avoided giving any reasoning whatsoever as to on what count the rejection of the petitioner's application was taking place. Mere citing of Supreme Court judgments in its order would not have supplied the deficiency obtaining in the impugned order as to how the application filed by the petitioner was being found worth rejection by the trial court.
8. In the revision petition, the petitioner has adverted to the legal pleas on the basis of which the petitioner was meaning to seek rejection of the plaint.
9. This Court is of the view that since the trial court has avoided in adverting to the pleas of the petitioner as such any adjudication by this Court on merits would be seriously

prejudicing the right of the either side to the civil litigation and, therefore, deems it appropriate to dispose of this revision petition by setting aside the order dated 13.03.2023 passed by the learned Additional District Judge, Jammu and correspondingly directing the learned Additional District Judge, Jammu to hear the application of the petitioner afresh in the light of the legal provisions as are set up by the petitioner in his application and in the present revision petition and then adjudicate the case on merits.

10. Nothing observed by this Court in this order would be taken to be any reflection on the merits of the case set up by both the sides. The application of the petitioner to be disposed of by the trial court of learned Additional District Judge, Jammu by or before 04.09.2025.
11. Registrar Judicial, Jammu to send a copy of this order to the learned Additional District Judge, Jammu for notice and compliance.
12. Record, if any, summoned be sent back.

(RAHUL BHARTI)
JUDGE

JAMMU
02.07.2025
Naresh/Secy.