

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

Case: CM(M) No. 93/2024

Makhan Lal Wangoo, aged 92 years,
S/o Sh. Ram Chand Wangoo
R/o 61-100, Sector-5,
HIIG Complex, Rajinder Nagar,
Sahibabad District Gaziabad (UP) 201005.

.....Appellant(s)

Through :- Mr. Anil Sethi, Advocate

Vs

1. Ram Saroop Sharma
S/o Sh. Gian Chand Sharma
R/o E-311, Sainik Colony, Jammu.

.....Respondent(s)

2. Ajay Singh
S/o Sh. Tehal Singh
C/o E-311, Sainik Colony, Jammu.

3. Sainik Cooperative House Building
Society Ltd through its Chairman Sainik
Colony, Jammu.

Through :- Mr. Varun Raina, Advocate for R-1 and 2
Mr. K. Nirmal Kotwal, Advocate for R-3

CORAM:

HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER(ORAL)

11.04.2025

01. The instant petition has been preferred by the petitioner under Article 227 of the Constitution of India against the order dated 24.04.2024 passed by the Court of learned Additional District Judge, Jammu in case No. 9006/2016 titled '*Makhan Lal Wangoo Vs. Ram Saroop Sharma and Ors.*' by virtue of which, the Civil Misc. Appeal preferred against order dated 12.01.2016 passed by the learned 2nd Additional Munsiff, Jammu in the suit preferred by the petitioner

titled '*Makhan Lal Wangoo Vs. Ram Saroop & Ors.*' whereby the interim direction dated 15.02.2006 was vacated, has been dismissed.

02. The case of the petitioner is that the petitioner was compelled to approach to the learned Civil Court i.e. Court of learned 2nd Additional Munsiff, Jammu along with the stay application, whereby the respondents have been initially restrained from interfering into the possession of the petitioner and subsequently, the order of the stay came to be vacated vide order dated 12.01.2016. The further fact of the matter is that against the order of vacation passed by the Court of learned 2nd Additional Munsiff, Jammu, an appeal was preferred by the petitioner, in which he has prayed that he is in possession of the property, which is evident from the record and the photographs taken on spot.

03. It is the specific case of the petitioner that the learned Additional District, Judge has fallen in error in appreciating the true facts of the case and has passed the impugned order and misinterpreted the pleadings and documents, which establish that the land claimed to be their ownership land by respondent Nos. 1 & 2 was not the one in possession of the petitioner, whereas the petitioner has established his possession over the land in question on the strength of the allotment order and Lease Deed executed in favour of the petitioner by the Sainik Cooperative House Building Society. Hence, the instant writ petition.

04. While the matter was being argued, learned counsel appearing on behalf of respondent nos. 1 and 2 has produced a certified copy of the order dated 21.02.2025 passed by the Court of learned 2nd Additional Munsiff, Jammu, a perusal whereof, reveals that the suit preferred by the petitioner, which was

pending adjudication before the Court of learned 2nd Additional Munsiff, Jammu has since been dismissed in default vide order dated 21.02.2025.

05. Therefore, a prayer has been made by the learned counsel appearing on behalf of respondent nos. 1 and 2 that the instant petition is rendered infructuous, as the main suit against which the appeal was preferred, has already been dismissed by the Court of learned 2nd Additional Munsiff, Jammu.

06. In the aforesaid backdrop, the instant petition which arises out of the order passed by the Appellate Authority against the order dated 12.01.2016 passed by learned 2nd Additional Munsiff, Jammu is *dismissed for having been rendered infructuous*, along with connected applications. Once, the main suit has been dismissed vide order dated 21.02.2025, then the writ petition arises out of Appellate Court order dated 24.04.2024 against the order dated 12.01.2016, whereby, interim direction dated 15.02.2006 stood vacated, does not survive as the same is rendered infructuous. However, the dismissal of this petition shall not come in the way of the petitioner to agitate the cause afresh, if cause of action survives.

07. Interim direction, if any, shall stand vacated.

(WASIM SADIQ NARGAL)
JUDGE

JAMMU
11.04.2025
Mihul

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