

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

CM(M) No. 125/2025
CM Nos. 2709 & 2710/2025

Farhat Yasmeen

.....Petitioner(s)

Through: Mr. Aqib Aijaz, Advocate

Vs

Shabir Ahmad Rather

..... Respondent(s)

Through:

Coram: HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE

ORDER(ORAL)
07.05.2025

1. Heard.
2. In the facts and circumstances of the case especially having regard to the issue involved in the instant petition, the matter in the opinion of the Court can be disposed of at this threshold stage by passing of the appropriate orders, in accordance with the law.
3. The case of the petitioner in nutshell is that she is the owner of a flat No. 1-A, Sweet Home Apartments, Channi, Jammu regarding which she executed an agreement to sell with the respondent under some agreed terms and conditions as to the period within which the consideration amount was needed to be paid and the time of handing over of the possession of the flat. That the respondent failed to make the payment as per the agreed terms and conditions within stipulated time 'thereby forfeiting his right' to seek the specific performance of the agreement. That it was also agreed between the parties as per the agreement to sell that the possession of the subject flat will be handed over to the respondent/purchaser on the payment of entire

consideration amount within the stipulated period. That subsequently upon his failure to comply with the agreed terms and conditions, the respondent indirectly approached the petitioner requesting for fresh execution of an agreement which came into being on fresh terms and conditions but he again failed to comply with the regulating terms and conditions. That astonishingly, it was heard by the petitioner on one day that the respondent by night house breaking has made his entry in the subject flat and taken forcible possession of the same in an utter illegal and unlawful way. That the husband of the petitioner was constrained to approach the police concerned for registration of an FIR in the matter, but unfortunately, the respondent approached the Civil Court with a suit and by misrepresentation of the facts succeeded in getting the interim injunction order dated 07.04.2025. That after knowing about the same, she approached the trial Court and filed an application for vacation of the interim order which was not addressed by the learned trial Court. That the respondent filed an application under Section 151 CPC and obtained the order for implementation of the ad-interim order dated 07.04.2025 through concerned police station.

4. The main grievance of the petitioner/defendant is that the learned trial Court has not conducted an expeditious trial on the civil suit at least to dispose of the temporary injunction application within the stipulated period of thirty days. That the application of the petitioner filed under the provision of Order 39 Rule 4 of the CPC has also not been addressed by the learned trial Court which has caused undue hardship and prejudice to the him.

5. It is further submitted by the learned counsel, that the police concerned is not taking any action on the complaint of the husband of the petitioner as there is an ad-interim injunction order dated 07.04.2025 passed in the matter regarding the implementation of which the order dated 15.04.2025 has also been passed. The learned counsel further submitted that the petitioner is aggrieved of the reluctance on the part of the police concerned to investigate her complaint lodged by her husband, on account of the interim injunction orders dated 07.04.2025 and 15.04.2025. It is submitted by the learned counsel that the complaint filed before police concerned by the husband of the petitioner apparently discloses the commission of cognizable offences as the respondent by night house breaking made his forcible entry into the subject flat and she apprehends the theft/misappropriation of her belongings including the title deeds of the flat lying therein.
6. The petitioner has, accordingly, prayed for appropriate directions in the matter.
7. In the backdrop of the aforementioned discussion, the instant petition is disposed of with the direction to the learned trial Court i.e the Court of 3rd Civil Sub-Judge (Special Excise Mobile Magistrate), Jammu to make an endeavour to dispose of the pending temporary injunction application and the application filed by the petitioner/defendant under the provisions of Order 39 Rule 4 CPC in an expeditious manner and preferably within a period of three weeks. The SHO, Police Station concerned is at liberty to take necessary action under law on the complaint of the petitioner reported to have been filed by her husband, if the same discloses the commission of

any cognizable offences, however, without touching the issues of law and fact involved in the pending civil suit.

8. Disposed of.

(Mohd. Yousuf Wani)
Judge

Jammu
07.05.2025
Vijay

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

