

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

Case:- CM(M) No. 185/2025
CM No. 3800/2025

1. Devinder Singh, Age 59 years, ...Petitioner(s)
S/o Uttam Singh, R/o Village
Janglote, Tehsil & District Kathua,
J&K
2. Romesh Singh, Age 62 years,
S/o Uttam Singh, R/o Village
Janglote, Tehsil & District, Kathua,
J&K.

Through: Mr. Vishal Goel, Advocate
Mr. Dinesh Dogra, Advocate.

Vs

1. Devinder Singh, S/o Jai Singh, ... Respondent(s)
R/o Ward No. 10, Kathua, J&K.
2. Manmohan Singh, S/o Charan
Singh, R/o Ward No. 9, Kathua, J&K.

Through:

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

ORDER
(07.07.2025)

1. In their civil suit filed by the respondents No. 1 & 2 herein before the court of learned Additional District Judge, Kathua, the two petitioners along with one Raj Singh have been impleaded as proforma defendants whereas the contesting defendant is Kapil Dev Singh. The suit is for specific performance of an agreement to sell dated 22.10.2022 read with an agreement dated 31.01.2023.

2. The petitioners submit that they are not party to the two suit documents i.e. agreement to sell dated 22.10.2022 and 31.01.2023 and despite that the petitioners have been named in the

civil suit as a proforma defendants but decree is being sought against them for execution of a sale deed.

3. Learned counsel for the petitioners submits that because of operation of the interim order dated 11.02.2023 passed by the court of Additional District Judge, Kathua which is operating only against the contesting defendant, the petitioners' owned and possessed proprietary land is also getting prejudiced and for that purpose approached the trial court of learned Additional District Judge, Kathua with an application under section 151 of the Code of Civil Procedure, 1973 for clarification which application is said to be pending consideration for the last more than six months to the grave prejudice of the petitioners and their property which is not relatable to the suit documents and they also not being relatable to the cause of action.

4. The petitioners have come up with the petition under article 227 of the Constitution of India saying that they being neither necessary nor proper party in the context of the civil suit have been dragged in the litigation and for that purpose are suffering burden of the directions of the court order though not addressed against them.

5. This Court upon putting a query to Mr. Vishal Goel, learned counsel for the petitioners as to whether the petitioners have invoked Order 1 Rule 10 of the Code of Civil Procedure, 1973 to seek deletion from the suit as proforma defendants submits that

they intend to avail the said legal course of action so as to relieve the petitioners from the side effects of the civil suit so filed by the respondents against the actual defendant-Kapil Dev Singh.

6. In light of this, this petition is disposed of with the liberty reserved in favour of the petitioners to lay a motion to the said effect which upon being laid by them before the trial court shall be disposed of within a period of two months from the date of filing of a motion by the petitioners to the said effect.

7. Disposed of.

JAMMU
07.07.2025
Shivalee

(RAHUL BHARTI)
JUDGE

Whether the order is speaking : Yes
Whether the order is reportable: Yes

सत्यमेव जयते