

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

CM(M) No. 277/2025
CM No. 6353/2025

Guran Ditta

.....Petitioner

Through: Mr. Rudhar Partap Singh, Advocate

Vs

Maru Ram & Anr.

.....Respondents

Through:

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER
(06.10.2025)

- 01.** The petitioner has invoked the supervisory jurisdiction of this Court under Article 227 of the Constitution of India for challenging the proceedings in the suit titled “**Maru Ram Vs. Guran Ditta & Anr.**” which is stated to be pending before the court of learned Additional Munsiff, Samba-(trial court).
- 02.** The ground urged for challenging the proceedings before the trial court is that the said court does not have jurisdiction to entertain the suit in view of bar contained in Section 25 of the J&K Agrarian Reforms Act.
- 03.** Heard and considered.

- 04.** It appears that learned trial court vide order dated 02.12.2023 has passed an interim ex-parte injunction against the petitioner who happens to be the defendant before the trial court, whereby the petitioner has been restrained from creating third party interest in the suit land. It also appears that the petitioner has filed written statement before the trial court in which he has raised preliminary objection with regard to the maintainability of the suit on the ground that the civil court does not have the jurisdiction to entertain the suit.
- 05.** As per the provisions of Order XIV rule 1 (4) of CPC two kinds of issues arise in a suit; one issue of fact and the other issue of law. Rule 2 of the Order XIV of CPC vests power with the court to decide a suit on the basis of a preliminary issue. Therefore, the petitioner-defendant has the option of getting the suit decided on the basis of preliminary issue relating jurisdiction from the trial court. He can even move an application under Order 7 Rule 11 of the CPC seeking rejection of the plaint on the ground that trial court has no jurisdiction to entertain the suit. But without adopting the aforesaid course, the petitioner has invoked the supervisory jurisdiction of this Court.
- 06.** It is a settled law that a petition under Article 227 of the Constitution cannot be entertained by the High Court if a

litigant has an alternative and efficacious remedy available to him/her. Thus, this Court would refrain from exercising its supervisory jurisdiction in view of the availability of alternative efficacious remedy to the petitioner. It would be appropriate for the trial court to frame a preliminary issue with regard to the jurisdiction of the said court and decide the same after hearing the parties in accordance with law. The trial court shall also decide the application of the plaintiff under Order 39 Rule 1 and 2 of the CPC finally in accordance with the mandate of Order 39 Rule (A) of CPC.

07. The present writ petition is, accordingly, ***disposed of***.

JAMMU
06.10.2025
SUNIL



(SANJAY DHAR)
JUDGE

सत्यमेव जयते

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