

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

**CM(M) 60/2021 CM(9209/2021)
CAV 2292/2021
c/w CCP(S) 7/2022 CM(2243/2022)**

OM PARKASH

...Petitioner(s)

Through: Mr. H.R Qureshi, Advocate.

Vs.

**UNION OF INDIA TH SECRETARY MINISTRY ... Respondent(s)
OF DEFENCE NEW DELHI AND ANOTHER**

Through: Mr. Harshvardhan, Advocate.

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

ORDER

11.11.2025

1. The petitioner is the plaintiff who initiated civil suit for permanent prohibitory injunction before the court of Sub-Judge (Chief Judicial Magistrate), Rajouri, in August 2021 in which Union of India and 80 Infantry Brigade Nowshera, came to be named as contesting defendants.
2. The suit property is a two marlas plot of land comprised in khasra No. 2073 min having ground floor two shops and rooms situated in village Nonihal, tehsil Nowshera, district Rajouri.
3. Alongwith a suit, the petitioner filed an application for temporary injunction invoking Order 39 Rule 1 and 2 of the Code of Civil Procedure, 1908 which application came to be declined by the trial court of learned Sub-Judge,

Rajouri by virtue of order dated 12.10.2021 holding the petitioner not entitled for the relief as prayed for in the temporary injunction.

4. The petitioner being aggrieved of denial of relief of temporary injunction in his favour preferred a civil miscellaneous appeal under order 43 section (1) (r) of the Code of Civil Procedure, 1908 before the court of learned Principal District Judge, Rajouri, which by virtue of an order dated 27.11.2021, came to be dismiss the appeal of the petitioner.
5. The petitioner came forward with the present petition under article 227 constitution of India invoking supervisory jurisdiction of this Court for examining the legality and validity of two orders by the Courts below.
6. This Court is not inclined to disturb the discretion exercised by the trial court and confirmed by the appellate court but one salient factual aspect of the case is that the suit site has some structures in the form of shop existing thereupon.
7. Whether the suit site alongwith the structure is in possession of the petitioner as plaintiff or the suit site and the structure is in possession of the contesting defendants is a disputed question of fact which would come out with the finding of fact in the course of trial when both sides would lead the respective side evidence for the trial court to adjudicate the suit.

8. Attending to the equity of the case, this Court disposes of the present petition with a direction to the respondents herein, who are also the two defendants in the civil suit, not to subject the structure existing at the suit site to any demolishing, or alteration or addition in any manner whatsoever, by any act of omission or commission on their part while being in purported possession of the suit site which is admittedly within fence erected and set up by the respondent No. 2.
9. Disposed of.
10. Contempt petition connected is also disposed of.

(RAHUL BHARTI)
JUDGE

JAMMU:
11.11.2025
"Opinder"