

Supplementary List-I
Serial No. 91

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

CM(M) No. 317/2025
CM No. 7719/2025
CM No. 7720/2025

Date of pronouncement : 02.12.2025
Uploaded on : 04.12.2025

Ikhlaq Ahmed
.....Petitioner

Through:- Mr. Abrar Ahmed Khan, Advocate

V/s

Ab. Majid Butt
.....Respondent

Through:-

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
JUDGMENT (ORAL)

01. The petitioner-Ikhlaq Ahmed has instituted a civil suit against the respondent-Ab. Majid Butt before the court of learned Sub-Judge, Doda bearing a status of being a tenant of the suit shop whereat he is said to be running business in the name and style as “M/s Ikhlaq Tyre Workshop”.

02. The institution of the suit is on a purported cause of action that the respondent-Ab. Majid Butt as being landlord was aiming to evict the petitioner-Ikhlaq Ahmed

from the suit shop without adopting due course of law and thus a decree of permanent prohibitory injunction read with mandatory injunction came to be asked for against the respondent-Ab. Majid Butt.

03. The trial court of learned Sub-Judge, Doda, by virtue of an order dated 18.11.2025, came to pass an ad-interim *ex-parte* injunctory direction thereby restraining the respondent/defendant from causing interference in the petitioner's peaceful possession and enjoyment of the demised suit shop till next date of hearing.

04. The respondent, instead of appearing in the suit and contesting the suit of the petitioner, went for an appeal under Order 43 rule 1(r) of the Code of Civil Procedure, 1908 before the court of learned Additional District Judge, Doda which came to grant indulgence by putting the petitioner on notice and staying the operation of the order dated 18.11.2025 passed by the learned Sub-Judge, Doda meaning thereby the demised suit shop has been exposed to any mischief at the end of either of the parties to the litigation which literally amounts to the situation whereby the civil court is asked to surrender its jurisdiction to decide the dispute and leaving it for the parties to do it by dint of their own machination and maneuvers.

05. The petitioner has come rushing to this Court with the present petition under article 227 of the Constitution of India primarily on the ground that the order dated 18.11.2025 of the learned Sub-Judge, Doda is amenable to number of end situations, one of which being dismissal of the petitioner's application for temporary injunction or addition/alteration of the interim direction or even confirmation of the interim direction but all these possibilities have been curbed to waste by the appellate indulgence of the learned Additional District Judge, Doda by staying the operation of order dated 18.11.2025.

06. This Court sees no purpose in retaining this petition for adjudication as it deserves to be *disposed of* at the earliest.

07. Accordingly, this Court ***disposes of*** this petition by directing the learned Additional District Judge, Doda to *dispose of* the appeal preferred by the respondent within a period of 15 days from the date of receipt of certified copy of this order by keeping in view the well settled position of law that in which situation and to what extent an *ex-parte* ad-interim injunctory order passed in terms of Order 39 Rule 1 & 2 of the Code of Civil Procedure, 1908 can be assailed in an appeal under Order 43 rule 1(r) of the Code of Civil Procedure, 1908 and to this effect there are number of

judgments in line from the Hon'ble Supreme Court of India as well as from this Court which this Court is not interested to tax the text of this order by citing so.

08. This Court modifies both order dated 18.11.2025 of learned Sub-Judge, Doda and order dated 22.11.2025 of the learned Additional District Judge, Doda by directing *status quo* for both the parties to maintain with respect to the demised suit shop obtaining as on the date of filing of the civil suit by the petitioner leaving it free for the lower appellate court as well as trial court to act as per the respective discretion which, of course, has to be legal one in disposing of the respective matters before it.

09. The present petition is, accordingly, ***disposed of*** along with connected applications.

(RAHUL BHARTI)
JUDGE

JAMMU
02.12.2025

Bunty

Whether the judgment is speaking: Yes/No

Whether the judgment is reportable: Yes/No