

IN HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM(M) No. 9/2025

Harminder Singh and Ors.

...Petitioner(s)

Through: Mr. Abid Mushtar Dar, Adv.

Vs.

UT of JK and Ors.

...Respondent(s)

Through:

CORAM:

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

ORDER
14.01.2025

01. Through the medium of the instant petition filed in terms of Article 227 of the Constitution of India, the petitioners [plaintiffs before the learned trial court] are aggrieved of the Orders dated 5th October, 2024 and 8th August, 2024, of the learned trial court and seek setting aside of the same on the main ground that the learned trial court through the aforementioned orders impliedly allowed the written statement of the contesting defendants 7 to 12 which had been filed beyond the stipulated

period of 120 days in contravention of the provisions of Order 8 Rule 1 of CPC.

02. Case of the petitioners/plaintiffs is that they, on, 11th September, 2023, filed a civil suit titled as *Harminster Singh and Ors. Vs. UT of JK and Ors.* before the learned trial court i.e., court of Munsiff Chadoora with the prayer for decree of perpetual injunction in their favour and against the respondents in respect of the subject matter of the dispute which is land measuring 1 Kanal and 8 Marlas falling under Survey No. 181 situated at Hayatpora Tehsil Chadoora District Budgam.

03. The official respondents 1 to 6 did not choose to contest the proceedings despite the service of summons upon them which led to the initiation of ex-parte proceedings against them. The contesting respondents 7 to 12 appeared in the case on 4th October, 2023 through their learned counsel and sought opportunity for filing of their written statement, but failed to file the same within the stipulated period i.e., by or on 14th March, 2023.

04. It is the submission of learned counsel for the petitioners that the contesting respondents filed their written statement on 15th March, 2024, which was not a hearing day and after the filing of the same, objection was raised before the learned trial court regarding the right of the said contesting defendants to file their written statement beyond the stipulated

period. However, the learned trial court through interim orders dated 5th October, 2024 and 8th October, 2024, impliedly allowed the written statement without assigning any reason for the same which was necessarily to be done even if petitioners had not raised any objection. The learned counsel, in support of his submissions, invited the attention of this Court towards the provisions of Order 8 Rule 1 of CPC, which contains an amended proviso only as regards the Union Territory of Jammu and Kashmir by stipulating that the defendants in the Union Territory of Jammu Kashmir can be permitted subject to assignment of reason to file the written statement beyond a period of 30 days by a time which shall not be later than 120 days from the date of service of summons and on the expiry of said period of 120 days, the defendants shall forfeit their right to file the written statement and the court shall not allow the written statement to be taken on record.

05. Perusal of the copies of the interim orders especially dated 5th October, 2024 and 8th October, 2024 reveals that admittedly the learned trial court has not addressed the objection of the learned counsel for the petitioners/plaintiffs by a detailed and reasoned order.

06. Under these circumstances, it is felt appropriate to dispose of the instant petition at its threshold stage with the direction to the learned trial court

to address to the objection of the petitioners/plaintiffs regarding the *locus standi* of the contesting respondents/defendants to file the written statement beyond a period of 120 days from the date of service of summons upon them through a reasoned order.

07. Disposed of, accordingly, in the aforesaid terms.

(MOHD YOUSUF WANI)
JUDGE

SRINAGAR:

14.01.2025

“Shamim Dar”