

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

CM(207/2025) IN
CM(M) 17/2025

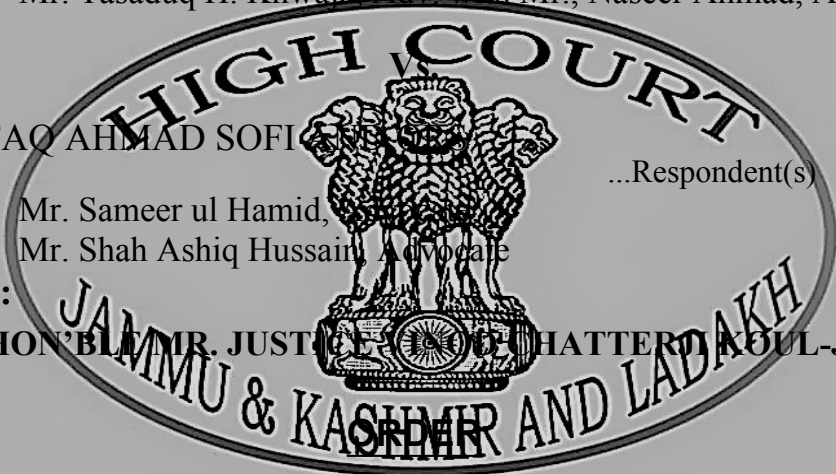
MOHAMMAD MUZAFFAR SOFI AND
ANR ...Appellant(s)/Petitioner(s)

Through: Mr. Tasaduq H. Khwaja Adv. with Mr., Naseer Ahmad, Adv.

MUSHTAQ AHMAD SOFI ...Respondent(s)

Through: Mr. Sameer ul Hamid,
Mr. Shah Ashiq Hussain Advocate

CORAM: HON'BLE MR. JUSTICE P. C. CHATTERJEE, JUDGE



19.05.2025

1. Through the medium of this petition, petitioners have challenged the order passed in *ex parte* on 31.12.2024, by the court of 3rd Civil Subordinate Judge (Forest Magistrate) Srinagar, in a suit filed by the plaintiffs, respondents herein, whereby defendants, petitioners herein, have been temporarily restrained from interfering with the possession of plaintiff on spot over the suit property, i.e., two storied building along with land underneath and appurtenant thereto measuring 20 Marlas and 91 Sq.Fts. under Khasra No.173, Khewat No. 2 and Khata No. 2 situated at Gulab Pora, Tengpora, Batamaloo, Srinagar. Petitioners' case is that order impugned was not served upon them, therefore, counsel for the petitioners submits that they could not approach the Trial court for its modification before winter vacations which commenced from 06.01.2025.
2. It is submitted that petitioners, having been deprived of approaching the Trial court for modification or vacation of the order impugned due

to winter vacations, have approached this Court with the present petition on 15.01.2025.

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3. While issuing notice to the other side, a Coordinate Bench of this Court directed the parties to maintain status quo in respect of the subject matter of dispute. The status quo so passed by this Court is in force.
4. An application under Order 39 Rule 1 & 2 CPC, has been filed alongside the civil suit by plaintiffs/respondents before the Trial court, in which the order impugned has been passed and made subject to filing of objections. It is, thus, submitted by counsel for the respondents that objections are yet to be filed before the Trial court to the application under Order 39 Rule 1 & 2 CPC.
5. Having regard to above facts, keeping this petition on board would not serve any purpose, because the matter is pending before the Trial court and order impugned passed is subject to filing of objections. Therefore, it will be appropriate to ask the Trial court to decide the application on merits subject to defendants/petitioners filing objections to that application by 24th May, 2025 and thereafter, Trial court shall hear the parties and decide the same keeping in mind the mandate of provisions which require such application to be decided within thirty days. Parties to cause their appearance before the Trial court on 24th May, 2025, with copy of this Order. The Trial court shall prepone the date and take up the matter on 24th May, 2025. *Ordered accordingly.*
6. Till the application is decided by the Trial court, parties shall maintain status quo on spot.
7. **Disposed of** in terms of above.

(VINOD CHATTERJI KOUL)
JUDGE

SRINAGAR
19.05.2025
"Imtiyaz"