

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

**WP(C) No. 1510/2025**

1. Fareed Hussain ...Petitioner(s)  
S/O. Baliq Hussain  
R/O. Shahdara, Tehsil Uri, District  
Baramulla.

2. Mohammad Azad Khan  
S/O. Ghulam Huder Khan  
R/O. Shahdara, Tehsil Uri, District  
Baramulla.

Through: Mr. R.A.Sogami, Adv.

**Vs.**

1. Union Territory of Jammu and Kashmir ...Respondent(s)  
through Commissioner/Secretary to  
Govt. Revenue Department, Civil  
Secretariat, Srinagar/Jammu.

2. Deputy Commissioner, Baramulla.

3. Sub Divisional Magistrate, Uri.

4. Tehsildar Uri, District Baramulla.

5. Senior Superintendent of Police  
District Baramulla.

6. Sub Divisional Police Officer, Uri,  
District Baramulla.

7. Sayed Kalander Shah Naqvi  
S/O. Ali Hayder Shah Naqvi

8. Sayed Abbas Naqvi  
S/O Sayed Kalander Shah Naqvi

9. Sayed Akhlaq Shah Naqvi  
S/O. Sayed Kalander Shah Naqvi

10. Sayed Murtaza Naqvi  
S/O. Sayed Kalander Shah Naqvi  
Residents of Shahdara Tehsil Uri  
District Baramulla.

Through: Mr. Aqib Aijaz, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE.**

**JUDGMENT**

**01.07.2025**

**Oral:**

01. Heard learned counsel for the petitioners as well as learned counsel for the caveators/respondents 7 to 10 at length and perused the material on record. Accordingly, with the appearance of learned counsel for the caveators, the caveat stands **discharged.**
02. The petitioners, through the medium of the instant petition, are seeking a Mandamus, directing the respondents to identify and demarcate their land in pursuance to the Order dated 16<sup>th</sup> June, 2025, under security cover and protection to them as also to protect and safeguard their landed property against the illegal trespassing and encroachments on the part of private respondents or any other persons, besides, seeking a Writ in the nature of prohibition, prohibiting the private respondents from causing any sort of impediment in the process of identification and demarcation of the landed property of the petitioners.
03. While the matter was being heard by this Court, learned counsel for the caveators, at the very outset, produced a copy of order dated 24<sup>th</sup> June, 2025, passed by the court of learned Sub Judge, Uri, in a suit filed by the respondent no. 7 herein and plaintiff therein for permanent injunction with regard to the land in question, which is also subject matter in the instant petition and by virtue of the aforesaid order, the petitioners/defendants were

restrained from causing any sort of interference in the suit property. A copy of the interim order produced by learned counsel for the caveators/respondents is taken on record.

04. With a view to defeat the rights of the respondents as also with a view to circumvent the process initiated by the respondent no. 7 by way of filing a civil suit, the petitioners have filed the instant petition on false and flimsy grounds, which tantamounts to abuse of process of the Court. What the petitioners could not achieve directly from the trial court, are trying to achieve through the medium of the instant petition, which falls within the realm of abuse of process of the Court. When as a matter of fact the petitioners instead of filing the instant petition before this Court ought to have contested the case before the trial court, which has passed the restraint/interim order against him. The petitioners, it appears, with malafide intention, have not placed on record a copy of the aforesaid interim order. For facility of reference, the operative part of the interim order is reproduced as under:-

*“ Heard the submission and perused the record which beside including the plaint also includes the record available on file. The plaintiff/applicant has made out of prima facie case, wherein balance of convenience lies in his favour and the matter also appears to be of emergent in nature. Thus in totality of the circumstances the requirement of notice under Order 39 Rule 3 CPC is dispensed herewith and in the meantime following order is passed.*

*Issue notice to other side for filing objections and in the meantime defendants are restrained from causing any sort of interference in the suit property. However, non-applicants/defendants shall be at liberty to approach this court any time for modification, alteration or cancellation of this order. The applicant/plaintiff shall comply with Order 39 Rule 3*

*(a) of CPC. Registry is directed to issue notice to the other side in the main suit. Let the file come up for further proceedings on 14.07.2025.”*

05. In the instant petition, the record reveals that the petitioners have filed a complaint before the SDPO, Uri, District Baramulla, against the private respondents, in which, the cognizance has already been taken by the said SDPO on 14<sup>th</sup> June, 2025, by referring the matter to the concerned Tehsildar, who, in turn, directed the concerned Patwari to visit on spot and sought a detailed report in terms of the aforesaid order. The petitioners, without waiting for the outcome of the same, have initiated parallel proceeding by filing the instant petition that too by suppressing the material facts and playing fraud with the Court.

06. This Court, in the similar facts and circumstances, while deciding the case titled **Satpal Sharma vs. State of J&K**, OWP No. 2015/2018 on 20.09.2024 has observed as under;

*44. “In Prestige Lights Ltd. v. SBI reported in (2007) 8 SCC 449 it was held that in exercising power under Article 226 of the Constitution of India, the High Court is not just a court of law but is also a court of equity and a person who invokes the jurisdiction of this Court under Article 226 of the Constitution is duty-bound to place all the facts before the Court without any suppression of material fact which has a direct bearing on the merits of the case..”*

*45. Reliance is also placed on the judgment of Hon'ble Apex Court in Scrutton, L.J. in R. v. Kensington Income Tax Commissioners [(1917) 1 KB 486 (CA)], wherein it has been observed as under:*

*" The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of court by deceiving it. The very basis of the writ jurisdiction rests in disclosure of true, complete and correct facts. If the material*

*facts are not candidly stated or are suppressed or are distorted, the very functioning of the writ courts would become impossible."*

*55. It is well settled that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief interim or final. The Apex Court in the case of "Kusha Duruka v.s The State of Odisha" reported in 2024 SCC OnLine SC 56 has taken a similar view which is reproduced as under:*

*"7. It was held in the judgments referred to above that one of the two cherished basic values by Indian society for centuries is "satya" (truth) and the same has been put under the carpet by the petitioner. Truth constituted an integral part of the justice- delivery system in the pre-Independence era, however, post- Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings. In the last 40 years, the values have gone down and now a litigants can go to any extent to mislead the court. They have no respect for the truth. The principle has been evolved to meet the challenges posed by this new breed of litigants. Now it is well settled that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final. Suppression of material facts from the court of law, is actually c/w playing fraud with the court. The maxim suppressio veri, expressio falsi, i.e. suppression of the truth is equivalent to the expression of falsehood, gets attracted. It's nothing but degradation of moral values in the society, may be because of our education system. Now we are more happy to hear anything except truth; read anything except truth; speak anything except truth and believe anything except truth. Someone rightly said that 'Lies are very sweet, while truth is bitter, that's why most people prefer telling lies.*

*"56. The object underlying the above principle has been succinctly stated in K.D. Sharma Versus Steel Authority of*

*India Ltd. and Ors. rendered in (2008) 12 SCC 481 wherein, following has been held:-*

35. "It has been for many years the rule of the Court, and one which it is of the greatest importance to maintain, that when an applicant comes to the Court to obtain relief on a ex-parte statement he should make a full and fair disclosure of all the material facts, not law. He must not misstate the law if he can help the Court is supposed to know the law. But it knows nothing about the facts, c/w and the applicant must state fully and fairly the facts, and the penalty by which the Court enforces that obligation is that if it finds out that the facts have not been fully and fairly stated to it, the Court will set aside, any action which it has taken on the faith of the imperfect statement". 57. The Hon'ble Apex Court in the case of K. Jayaram and others vs Bangalore Development Authority and ors reported in 2022 (12) SCC 815, has held as under:

38....As per settled law, the party who invokes the extraordinary jurisdiction of m this Court under Article 32 or of a High Court under Article 226 of the Constitution is supposed to be truthful, frank and open. He must disclose all material facts without any reservation even if they are against him. He cannot be allowed to play "hide and seek" or to "pick and choose" the facts he likes to disclose and to suppress (keep back) or not to disclose (conceal) other facts. The very basis of the writ jurisdiction rests in disclosure of true and complete (correct) facts. If material facts are suppressed or distorted, the very functioning of writ courts and exercise would become impossible. The petitioner must disclose all the facts having a bearing on the relief sought without any qualification. This is because "the court knows law but not facts"

07. This Court in another case titled “**Fayaz Ahmad Rather v. U.T of J&K and ors.**”, LPA NO. 20/2023 c/w LPA NO. 46/2023, decided on 03.04.2023, which is squarely applicable to the present case. For the convenience of understanding, has deduced following principles in para-23 of the judgment:-

*“Jurisdiction of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. To invoke this extraordinary, discretionary and equitable jurisdiction, it is of utmost necessity that the petitioner approaching the Writ Court must come with clean hands and put forward all facts before the court without concealing or suppressing anything.*

*A litigant is bound to state all facts which are material or relevant to the litigation.*

*The litigant must candidly state all the facts before the court without reservation. He cannot be permitted to play “hide and seek” or to “pick and choose” the facts he likes to disclose and keep back or conceal facts.*

*Jugglery, manipulation, manoeuvring or misrepresentation has no place in equitable and prerogative jurisdiction.*

*Suppression of material facts, concealment of full details of litigation, present and past, between the parties qua subject matter of dispute, distortion or manipulation of relevant facts, misleading the court by stating false facts or withholding true facts disentitle a party to invoke equitable jurisdiction under Article 226 of Constitution of India.”*

08. The law has been settled at naught by the Apex Court and also by various High Courts in authoritative pronouncements that when an applicant comes to the Court to obtain relief on a ex-parte statement, he should make a full and fair disclosure of all the material facts and law.

09. It is well settled that the discretionary relief under Article 226 of the Constitution will only be granted to the person, who comes to the Court with clean hands, which means that a party seeking judicial intervention must come to the Court in good faith without any form of deception, misrepresentation or fraud. The Court has to exercise its discretion in favour of justice, fairness and equity and will deny relief to a party, whose conduct does not fall within these principles. Hence, a person, who is found guilty of such

fraudulent conduct, is not entitled to get a relief under Article 226 of Constitution of India.

10. The Hon'ble Apex Court in the case of [K. Jayaram and others vs Bangalore Development Authority and ors](#) reported in 2022 (12) SCC 815, has held as under:

*“As per settled law, the party who invokes the extraordinary jurisdiction of this Court under [Article 32](#) or of a High Court under [Article 226](#) of the Constitution is supposed to be truthful, frank and open. He must disclose all material facts without any reservation even if they are against him. He cannot be allowed to play "hide and seek" or to "pick and OF JAMMU choose" the facts HIGH he likes COURT & KASHMIR AND LADAKH to disclose and to suppress (keep back) or not to disclose (conceal) other facts. The very basis of the writ jurisdiction rests in disclosure of true and complete (correct) facts. If material facts are suppressed or distorted, the very functioning of writ courts and exercise would become impossible. The petitioner must disclose all the facts having a bearing on the relief sought without any qualification. This is because "the court knows law but not facts".*

11. The Court must ensure that its process is not abused and in order to prevent abuse of process of Court, it would be justified even in insisting on furnishing of security and in cases of serious abuse, the Court would be duty bound to impose heavy costs.
12. In view of the observations made hereinabove, this Court deems the grounds urged by the petitioners in the instant petition as unacceptable and the writ petition which has been preferred by the petitioners by way of suppression of material fact is not maintainable and the writ petition, as such, deserves dismissal as

the act of petitioner in the instant case falls within the realm of abuse of process of law. Therefore, it is a fit case, where the costs are required to be imposed with a view to deprecate such practice.

13. Accordingly, the petitioners are saddled with costs of Rs. 10,000/- for filing the instant petition which is utterly false and frivolous. The costs so imposed upon the petitioners shall be borne by the petitioners and deposited in the Advocate's Welfare Fund within a period of four weeks from today. In case the costs so imposed are not deposited by the petitioners within the aforesaid period, the Registry shall list the instant matter for the limited purpose of ensuring compliance of the Order.
14. For the forgoing reasons, the instant petition is found to be grossly misconceived, and the same is, accordingly, **dismissed** in limini with costs as imposed hereinabove.

**(WASIM SADIQ NARGAL)**  
**JUDGE**

**SRINAGAR:**  
**01.07.2025**  
*"Shamim Dar"*

***Whether the Judgment is reportable? Yes/No***

***Whether the Judgment is Speaking? Yes/No***