

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

CM (M) No. 404/2025

Raashid Ahmad Malik.

...Petitioner(s)/Appellant(s)

Through: Mr. Zahoor Ahmad Shah, Adv.

Vs

Misra Bano

...Respondent(s)

Through:

CORAM:

HON'BLE MR JUSTICE RAHUL BHARTI, JUDGE

ORDER
22.09.2025

1. The petitioner is defendant in a civil suit filed by the respondent pending adjudication before the court of 1st Additional Munsiff, Srinagar.
2. The institution of the suit is said to be related to the year 1997 which qualifies it to be a target case for the trial court.
3. The petitioner, as defendant, is said to be contesting the civil suit but on **23rd March, 2024** came to be set ex-parte in the proceedings for seeking setting aside of which the petitioner made an application under Order 9 rule 7 of the Jammu and Kashmir Code of Civil Procedure, Svt. 1977 filed on **8th June, 2024** i.e. within three months of the passing of order dated

23rd March, 2024 but the said application of the petitioner came to suffer rejection vide an order dated 5th August, 2024 without containing any reason except a recital by the 1st Additional Munsiff, Srinagar that no ground has been reflected as to why the defendant remained absent during the trial of the suit instead of dealing with the cause for non-appearance of the defendant on the date fixed in the case on which the petitioner was proceeded ex-parte i.e. 23rd March, 2024.

4. The petitioner came to seek review of e said order dated 5th August, 2024 of the court of 1st Additional Munsiff, Srinagar by filing a review petition which after almost nine months of its pendency has come to suffer rejection vide an order dated **3rd September, 2025** thereby bringing the petitioner in the supervisory petition under Article 227 of the Constitution of India.
5. In case if this court grants indulgence in the present matter, then this court would be constrained to stay the proceedings in the civil suit that would be against the very spirit of the trial of the civil suit. In fact, the trial court ought to have kept this aspect in its perspective that in case if from **23rd March, 2024** onwards till filing of application by petitioner on **5th**

August, 2024 no substantial proceedings in the civil suit had taken place, then the petitioner ought to have been accommodated by setting aside the ex-parte proceedings of the intervening time and that would have saved the trial court of time and energy spent in keeping the review petition pending for almost nine months.

6. In the light of the aforesaid situation, this court disposes of this petition at its very inception stage by setting aside ex-parte proceedings initiated against the petitioner in terms of order dated **23rd March, 2024** and directing the trial court to proceed ahead with the trial of the civil suit with expeditious spirit from the stage when the petitioner came to be proceeded ex-parte in terms of order dated **23rd March, 2024**.

7. **Disposed of** in the aforesaid terms.

8. Copy of this order be forwarded to the court of 1st Additional Munsiff, Srinagar by the Registrar Judicial, Srinagar.

(RAHUL BHARTI)
JUDGE

SRINAGAR

22.09.2025

"Shamim Dar"