

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM(M) 426/2025 CM(6416/2025).

GHULAM QADIR LONE.

...Petitioner(s)

Through: Mr. Altaf, Mehraj, Advocate.

VERSUS

AASIF RAMZAN BHAT.

Through: Mr. M. S. Reshi, Caveator.

...Respondent(s)

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE.

ORDER
06.10.2025

01. The petitioner is a plaintiff in a money recovery civil suit filed on File **No. 31/PDJ** before the Court of Principal District Judge, Bandipora.
02. The petitioner, as plaintiff, has invoked Order 37 of the Code of Civil Procedure, 1908 for seeking recovery of **Rs. 20 lacs** along with the interest at the rate 18% per annum.
03. The purported basis of the civil suit is a dishonoured cheque **No. 955360** dated **05.09.2022** for amount of **Rs. 20 lacs** issued by the respondent and

drawn upon his account **No. SB-149** at J&K Bank, Branch Ahamsharief Bandipora.

04. The institution of the civil suit is of **10.12.2024** beyond the validity period of the cheque in reference.

05. The respondent, as defendant, entered appearance in the suit and sought leave to defend which has come to be granted by the trial court of the learned Principal District Judge, Bandipora by virtue of an order dated **30.07.2025**, aggrieved whereof, the petitioner, as plaintiff, is invoking the supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

06. The main submission of the petitioner in the present petition is that there was no reason for the trial court to grant leave to defend in favour of the petitioner that too unconditionally, in light of the averments made in the application for leave to defend stating that the respondent has paid back the amount of **Rs. 20 lacs** to the petitioner whereas the security cheque is being abused by the petitioner meaning thereby that the respondent did not dispute the transaction with the petitioner.

07. When this Court examines the averments made in the plaint which is forming part of this petition, there are factual deficiencies and omissions in the light of which the leave to defend sought by the respondent might not have been refused by the trial court and that is precisely what the trial court has done by granting leave to defend.

08. In the plaint, the petitioner as plaintiff has omitted to mention the particular year in which the original transaction of payment of **Rs. 20 lacs** from his end to the respondent took place as well as the mode by which the payment of the consideration amount of **Rs. 20 lacs** was made and for the purchase of which land, all not being stated.

09. In view of these glaring omissions in the pleadings of the petitioner as plaintiff in the plaint, the plea of the respondent that he has repaid the amount in cash carries *prima facie* weight subject to proof as against lack of averments in the plaint itself.

10. As such, this Court finds no good reason to grant indulgence under its supervisory jurisdiction under

Article 227 of the Constitution of India and hence **dismisses** the petition.

11. Nothing observed herein shall prejudice the case of the plaintiff in proving his claim for the suit amount by way of leading evidence as he is otherwise entitled in view of the fact that the suit has now become a regular suit after the grant of leave to defend in favour of the respondent.

12. **Dismissed** along with the caveat.

(Rahul Bharti)
Judge

SRINAGAR
06.10.2025
Bisma Jan.

