

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

**CM(6435/2025) IN**  
**CM(M) 427/2025**  
**CM(6434/2025) CM(6939/2025)**

GULZAR AHMAD WAZA AND ANR

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

Through: Mr. Saleem Parray, Advocate

**Vs.**

BASHIR AHMAD TEELI AND OTHERS

...Respondent(s)

Through: Mr. Sheikh Manzoor, Advocate with  
Mr. Shabir Ahmad Shah, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL-JUDGE**

**ORDER**  
**08.12.2025**

Heard learned counsel for the parties.

Feeling aggrieved of Annexure-I and Annexure-II, attached with this petition passed by the Trial court, the petitioners have filed this petition seeking quashment of the said annexures. So far as the Annexure-I is concerned, which reads as under:

“... Instant application has been submitted by the applicants named above seeking clarification to the extent that whether Tehsildar/Revenue agencies are debarred to remove the encroachment existing adjacent to Masjid Shareef in the form of poplar trees on the ground that suit captioned above is pending disposal before this court and this court vide order dated 12.06.2017, passed in the application for interim relief has directed the parties to lis to maintain status quo on spot with respect to suit property. Large number of poplar trees are existing adjacent to the Masjid shareef. Trees in question are constant nuisance to the worshippers/commuter's and posing continuously threat to life, liberty and property of the people residing therein. They are forced to avoid offering prayers in the mosque. There is likelihood that during rainy season and gusty winds the trees may fall up on the Masjid Shareef and can cause devastating damage to life and property of applicants/residents. They have approached revenue authorities seeking removal trees/ nuisance, however, due to pendency of suit titled as Bashir Ahmad Teli & Ors. V/S Gulzar Ahmad Waza & Ors. Revenue authorities concerned have refused to proceed ahead in the matter as such have prayed that it may be clarified that whether revenue authorities/agencies are debarred from removing poplar trees in question.

On the presentation of application, this court has served the copy of the application to the learned counsels for parties to present suit with the direction to submit objections to the application.

Learned counsel for the plaintiffs has not chosen to file the objections to the application and has submitted that they have no objection in case the application submitted is allowed and the order passed in the application for interim relief is clarified to the extent as prayed for in the application in hand.

On the other hand defendants have filed the objections to the application in hand. In the objections filed it is submitted that the applicants have not approached this court with clean hands. They are guilty suppression of material facts. Allowing the application would amount to modification of the order cannot be passed. Application seeking clarification entertained and the matter came to be argued Learned counsel for plaintiffs as well as defendants too submitted that they have no objection in case the poplar trees in question are felled down/disposed of, however learned counsel for the defendants has submitted that either timber of the trees in question must be preserved or its sale proceeds of the same must be deposited in the court. Learned counsel for the applicants Adv Muneer Ahmad has submitted that the clarification may be made in light of the application submitted as the applicants as well as other villagers are suffering due to the existence of the huge number of poplar trees adjacent to the Masjid Shareef on road side however, due to the order passed by this court in the application for interim relief captioned above on 12.06.2017, applicants are forced to avoid to attend the Masjid Shareef and trees in question are posing threat to the life and property of the members of the locality.

Heard and considered the arguments, perused the plaint, written statement, application for interim relief order passed therein, application in hand and objections to the application and other material on record. From the perusal of file it appears that the plaintiffs have filed the suit captioned above in respect of the land measuring 30 Kanals and 13 Marlas bearing survey no.'s 455, 585, 788, 181, 369, 346, 8, 15, 188, 190, 217, 226, 231, 355, 386 and 396 situated at Hanjiwera and Matipora Pattan on the plea that same has been inherited by them from their father Ghulam Mohammad Waza. The defendants intend to dispossess them out of the same. On the other hand in the written statement filed by the defendant, wherein they have pleaded that plaintiffs ought to have filed the suit for partition as defendants too are co-sharers, possessors of the suit in hand. Suit property actually belonged to Ghulam Mohammad Waza who happens to be father of plaintiffs and maternal grand-father of the defendants. They have divided the suit property by themselves and the suit is at the stage of defendants evidence and is posted for hearing on 14.06.2025. From the perusal of the file it appears that this court vide order dated 12.06.2017, has passed order in the application for interim relief whereby this court has directed parties to lis to maintain status quo on spot with respect to suit property till disposal of the main suit.

By way of the present motion, applicants seek clarification of status quo order dated 12-06-2017, passed by this court in the above captioned application for interim relief by projecting therein that they have

approached to revenue authorities for removal of the poplar Trees existing on spot adjacent to the Masjid on the ground that trees in question are posing threat to life, liberty and property of the applicants and other inhabitants. They have approached revenue authorities for removal of trees in question, however, the revenue authorities are not proceeding ahead in the matter by saying that suit regarding the trees in question is pending disposal before this court. From the perusal of plaint it appears that Gulzar Ahmad Waza and Ghulam Rasool Waza have filed suit captioned above against Bashir Ahmad Teli, Zahoor Ahmad Teli, Mehraj ud Din Teli and Shahid Ahmad Teli Sons of Abdul Rehman Teli. Present applicants are neither the parties to lis neither this court has passed any order restraining revenue authorities to proceed ahead in the matter pending before them regarding removal of nuisance in the nature of poplar Trees in question pending before them as per the application submitted by the applicants. By virtue of the order passed by this court in the application for interim relief this court has directed parties to lis to maintain status quo on spot with respect to suit property which implies that character and features of suit property shall not be changed by the parties to lis. Since this court has not restrained revenue authorities from proceedings ahead in the matter pending before them regarding removal of nuisance in the form of the poplar trees situated adjacent to local Masjid neither present applicants, are parties in the present suit. Order passed by the court in the application for interim relief is clear, unambiguous/In case any proceeding is pending before Revenue authorities regarding the removal of nuisance in the nature of poplar trees they are at liberty to proceed ahead in the matter in accordance with law. Moreover, parties to lis i.e., plaintiffs and defendants as well as their respective counsels too have submitted that they have no objection in case poplar trees standing/ existing adjacent to Masjid in question are removed by the revenue authorities,<sup>1</sup> however, since trees in question too is the subject matter in suit captioned above as such disposal of the Timber of poplar trees in question/its proceeds shall be subject to outcome of order of this court and concerned revenue officer / authorities shall prepare inventory regarding trees in question. and submit detailed report in this regard before this court so that order pertaining its disposal is passed accordingly. Copy of this order be forwarded to Tehsildar /Executive Magistrate Pattan before whom as per the parties to litigation in hand proceedings for removal of nuisance in the nature of trees in question are pending. Application is accordingly disposed of same be made part of the main suit.

It would be clear from the order that the order has been passed with the consent of the parties, whereby petitioner herein agreed that Revenue authorities shall remove the nuisance which was in the shape of Poplar Trees as mentioned in the order referred above. Subsequent to the order passed, the Trial court has passed another order dated 22.07.2025 (Annexure-II).It is being submitted by learned counsel for the petitioner that he is ready in case such nuisance is by the poplar trees existing on his land.

Learned counsel for the respondents has submitted that ownership of the land is under dispute, so far as the removal of nuisance is concerned by removing of poplar trees on the land under dispute is concerned, nobody is contesting the removal. Therefore, there is no illegality in the order passed, however, in case for the removal of the nuisance by removing the poplar trees on the land in dispute, before removing, Executive Magistrate, itself, intimation shall be given to the parties.

Trial court, however, take all steps to decide the suit expeditiously without granted unnecessary adjournment to either of the parties.

**Disposed as above.**

**(VINOD CHATTERJI KOUL)**  
**JUDGE**

*Srinagar*  
*08.12.2025.*  
*"Imtiyaz"*

