

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

FAO(D) No. 11/2025
CM Nos. 7862/2025 7863/2025
Caveat No. 3019/2025

Ex-Hawaldar Mohammad Aslam Khan ...Petitioner(s)/Appellant(s)

Through: Mr. Salih Pirzada, Adv.

Vs.

**256 Transit Camp (Unit) A unit under Headquarter
Section & Ors.**

...Respondent(s)

Through: Mr Tahir Majid Shamsi, DSGI with Ms. Rehana Qayoom, Adv.

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

HON'BLE MS. JUSTICE SINDHU SHARMA, JUDGE

ORDER

28.11.2025

This appeal filed by the appellant under Section 13 of the Commercial Courts Act, 2015 read with Section 37 of the Arbitration and Conciliation Act 1996 [“the Act”] arises out of an order dated 24th November 2025 passed by learned Additional District Judge Srinagar (the Commercial Court) in a petition under Section 9 of the Act filed by the appellant, whereby the Commercial Court has declined to grant interim protection to the petitioner pending arbitration.

Briefly stated, the facts leading to the filing of the instant appeal as were projected in the application filed by the appellant before the Commercial Court, are that the appellant, who was a war veteran, was granted permission to operate an STD facility at 256-Transit Camp. He was later permitted to sell edible items and army equipment for over 20 years under duly executed lease and license agreements renewed by respondents from time to time.

It was pleaded that in the year 2018, the parties executed a more comprehensive agreement on 16th January 2018 for sale of general eatable items from a shop measuring 21' x 39', valid for 11 months. This lease and

license agreement executed on 16th January 2018 for 11 months was followed by another agreement executed on 1st of January 2019 on similar terms and conditions.

On 1st January 2024, the parties yet again executed a fresh lease and license agreement for the sale of specified items valid for 11 months. On 29th of November 2024, the parties executed another lease and license agreement for the same premises and for the same purpose. This lease and license agreement contained an Arbitration Clause.

It is pleaded by the appellant that on 10th September 2025, the appellant received a termination notice terminating the license arbitrarily and contrary to the terms and conditions of the lease and license agreement. In contemplation of appointment of arbitrator, the appellant filed an application under Section 9 of the Act seeking stay of the termination notice dated 10th September 2025 and also restraint on respondents from acting upon it during the pendency of the arbitral proceedings.

The application was contested by respondents by filing their written objections. In the objections, Respondents took a stand that in terms of Clause 14 of the Lease and License Agreement containing arbitration clause, the appellant was supposed to approach the Station Commander, Station Headquarter, Old Air Field Srinagar, whose decision, as per the said clause, was final and binding on the parties. It was pleaded that the termination of lease and license was necessitated as the appellant had violated the contract and had committed an act jeopardizing the national security. It was specifically pleaded that despite there being a complete ban, the appellant knowingly resorted to the sale of unauthorized Digital Pattern Indian Army Uniform and endangered the security and breached the security norms having serious implications. It was submitted that the contract agreement was signed on 1st of January 2025 and was valid for a period of 11 months, i.e., upto 30th November 2025. The Commercial Court having considered the rival contentions came to the conclusion that the appellant did not have any *prima facie* case for grant of interim relief, nor the balance of convenience was in his favour. The application was thus dismissed by order dated 24th November 2025, which is impugned in this appeal.

Having heard learned counsel for the parties and perused the record, we are of the considered opinion that the judgment passed by the Commercial Court is perfectly legal and in conformity with fact situation of the case.

Indisputably, lease and license agreement executed on 1st January 2025 was for a period of 11 months, and, therefore, *prima facie* the appellant had no right to continue in possession of the shop beyond 30th November 2025. The termination was necessitated due to the act of the appellant endangering the security of the nation. Despite there being a clear ban on sale of New Digital Pattern Combat Uniforms, the petitioner resorted to sale thereof, thereby, breaching the security which had wider ramifications and implications. The lease and license agreement which was come to an end on 30th November 2025 was prematurely terminated by having resorted to Section 11 (h) of the lease and license agreement dated 1st of January 2024. For facility of reference, Section 11 (h) is reproduced hereunder.

“The Licensee shall not carry out any anti-social activity, offensive/ illegal trade or business prohibited under the prevailing act of law or any other act affecting the security of the establishment. The licensee shall be entitled to use the licensed premises for lawful purpose only. If the licensee is found doing any of the illegal activities, then the Licensor shall have a right to terminate the agreement immediately without any notice and the licensee shall handover vacant premises to the licensor.”

Having regard to the aforesaid stipulation, *prima facie*, it was well within the right of the respondents to terminate the agreement if it was found that the licensee i.e., appellant herein had done any of the illegal activities, like engaging in trade or business prohibited by law.

In view of the aforesaid, we are in agreement with the Commercial Court that the appellant does not have any *prima facie* case to seek interim protection. Since there is Arbitration Clause contained in the lease agreement, as such, the appellant if aggrieved of any breach of contract is well within its right to seek compensation by laying claim before the arbitrator, but surely in the given facts and circumstances, the interim

protection as is sought for by the applicant, i.e., to stay in the premises and indulge in the trade despite termination of his license shall not be permissible.

Without saying much on the merits of the controversy, suffice it to say that the impugned order passed by the Commercial Court is well reasoned and falls within four corners of law. We are thus not inclined to interfere with the impugned judgment.

This appeal is accordingly found devoid of any merit and is accordingly dismissed. We however make it clear that the observations made by us hereinabove are only for the purpose of disposal of this appeal and shall not be construed as our opinion on merits of the case.

(SINDHU SHARMA)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:
28.11.2025
Altaf

Whether approved for reporting? Yes/No