

Supplementary List III
Serial No. 136

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

CM(M) No. 5/2026
CM No. 136/2026
CM No. 1097/2026

Reserved on: 27.04.2026
Date of pronouncement : 29.05.2026
Uploaded on : 29.05.2026

Shiv Ram

.....Petitioner

Through:- Mr. Mohd. Latif Malik, Advocate.

V/s

Amar Nath

.....Respondent

Through:-

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
ORDER

01. The petitioner-Shiv Ram is plaintiff in a civil suit on **file No. 440/2024** before the court of learned Additional District Judge, Samba, wherein a decree of specific performance of contract by reference to an agreement to sell dated **12.01.2019** is being solicited against the respondent herein.

02. The institution of suit is of **18.11.2024**.

03. What brings the petitioner to this Court through present petition under article 227 of the Constitution of India is an order dated **28.11.2025** passed by the court of learned Additional District Judge, Samba, whereby the written statement filed by the respondent in the suit has been taken on record by reckoning it to be filed within the time frame of **120 days** countable from the date of service of summons upon the respondent.

04. The court of learned Additional District Judge, Samba, in response to a temporary injunction application of the petitioner, passed an *ex-parte ad interim* order dated **19.11.2024**, thereby directing the parties to the suit to maintain *status quo* with regard to the suit land.

05. It is by reference to said temporary injunction application of the petitioner that in its said order dated **19.11.2024**, the court of learned Additional District Judge, Samba came to direct issuance of notice. A copy of the said order dated **19.11.2024** was forwarded to S.O., Tamilat Sadar Court, Samba for service.

06. It is by reference to service of said order that the Process Server, namely, Krishan Singh delivered the copy of

the order along with unspecified documents to the respondent on **29.11.2024** against respondent's signature.

07. It is, thus, clear that there was no order with respect to issuance of summons and service thereof in the civil suit in terms of the requirement of **section 27** read with **Order V** of the **Code of Civil Procedure, 1908**.

08. The respondent came to cause his appearance in the suit and filed a written statement which came to be entertained leaving the petitioner aggrieved.

09. This Court, in terms of its order dated **15.04.2026**, registered its serious disapproval with the manner in which the learned Presiding Officer of the court of Additional District Judge, Samba came to conduct the proceedings and pen down the orders but, nevertheless, this Court finds that the filing of the written statement by the respondent cannot be held to have missed the timeline which otherwise is being wished by the petitioner to have happened so as to pave way for him to earn a decree in an uncontested suit related to specific performance of an agreement to sell of 2019 which otherwise is contested by the respondent through his written statement. The petitioner wishes the court of learned Additional District Judge, Samba

to non-suit the respondent by disqualifying his written statement.

10. This Court finds no good reason to grant indulgence in the matter and, accordingly, ***dismisses*** this petition along with connected applications.

11. A copy of this order be forwarded to learned Additional District Judge, Samba by the learned Registrar Judicial, Jammu.

JAMMU
29.05.2026
Bunty

(RAHUL BHARTI)
JUDGE

Whether the order is speaking: Yes/No

Whether the order is reportable: Yes/No

सत्यमेव जयते