

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

CM (M) No. 50/2025

***Pronounced on : 30.04.2026
Uploaded on : 05.05.2026***

**Ghulam Rasool, Aged 84 years,
S/o Asad Naik,
R/o Koot Khari, Tehsil Khari,
District Ramban.**

.....Applicant(s)/Petitioner(s)

Through :- Mr. Qadri Towkeer Nazir, Advocate

v/s

**Mohd. Ibrahim,
S/o Gulla Khanday,
R/o Koot Khari, Tehsil and District Ramban.**

.....Respondent(s)

Through :- Mr. Priyanshu Sharma, Advocate

CORAM: HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

ORDER (ORAL)

1. By this petition, petitioner herein has invoked supervisory jurisdiction of this Court vested under Article 227 of the Constitution of India, thereby seeking quashment of order dated 17.02.2025 [**“the impugned order”**] passed by the learned Principal District Judge, Ramban [**“the Appellate Court”**] in appeal titled *“Mohd. Ibrahim Vs. Ghulam Rasool”*, by virtue of which the status-quo order dated 31.12.2024 passed by the learned Munsiff, Banihal [**“the trial Court”**] has been modified and respondent has been allowed to enjoy and raise construction over the land/suit property to the extent of 7 ½ Marlas, which, as per the petitioner, has been passed without appreciating the observations made by the learned Munsiff, Banihal.

2. Briefly stating, the facts, which led to the filing of instant petition, are that the petitioner claiming to be the owner in possession of land measuring 02 Kanals 10 Marlas, falling under Khasra No. 469, situated at Koot Khari, Tehsil and District Ramban, filed a civil original suit for permanent prohibitory injunction against the respondent and six others for restraining them from causing any sort of interference in the land abovementioned. The learned trial Court, vide order dated 29.11.2023, granted interim injunction in the civil suit, which was also made absolute vide order dated 31.12.2024. For facility of reference, operative portion of order dated 31.12.2024, is set out below:

“13..... Thus, for the above reasons, as the applicant has succeeded in proving that he has a prima facie case on the file which needs adjudication by this Court and the balance of convenience also lies in his favour and if ad-interim order is vacated he shall suffer an irreparable loss. So, the ad-interim order dated 29.11.2023 is hereby made absolute and both parties are directed to maintain status quo in respect of the suit property measuring 02 Kanals 10 Marlas falling under Khasra No. 469 Min situated at Kootkhari Tehsil Khariand District Ramban till the final disposal of the suit. The observations made hereinabove are purely meant for the purpose of adjudicating the present application and they shall not in any way be construed as an expression on the merits of the case. Accordingly, the application is disposed of. Be tagged with main case file after due completion.”

3. Being aggrieved of the order dated 31.12.2024, the respondent herein preferred an appeal before the learned Appellate Court, which was disposed of vide order dated 17.02.2025, whereby, the

said Court had modified the order dated 31.12.2024, operative portion of which, for facility of reference, is set out below:

“10..... Accordingly, the order of the trial Court dated 31.12.2024 is rectified to the extent that in the land measuring 7 ½ Marlas in which Mohd. Ibrahim is shown to be in possession, he shall enjoy the same and make any construction thereon after taking permission from the competent authority. With further direction that he shall not make any construction outside the area measuring 7 ½ marlas of land which is in his possession i.e. he will not trespass into the land of the respondent herein. With further direction that Tehsildar Khari shall depute some revenue officers on spot who shall demarcate the land measuring 7 ½ Marlas in presence of both the parties.”

4. It is this order, which has been called in question by the petitioner.
5. Learned counsel appearing on behalf of the petitioner states that the respondent and other defendants, in the civil suit filed before the learned trial Court, are strangers having no right over the property in question and are interfering, trespassing and encroaching the property in question. He further states that the learned trial Court has passed the order dated 31.12.2024 after being satisfied that all the parameters indicates prima facie case in favour of the petitioner.
6. ***Per contra***, learned counsel appearing on behalf of the respondent states that under Khasra No. 469, total land is 05 Kanals and 01 Marla, out of which only 01 Kanal of land has been inherited by the respondent and his brother, namely, Abdul Rasheed Khande from their mother, which has also been reflected in the Mutation attested in the year 1959. He further states that the respondent has every

right to remain in possession to the extent of his share in the terms of oral partition and a pathway which is existing on spot over which the respondent is making construction by erecting pillars as the same has been continuously in use of the respondent from the last more than five decades.

7. **Mr. Priyanshu Sharma, learned counsel appearing on behalf of the respondent** further states that vide order dated 06.08.2024, the learned trial Court appointed a Commission headed by Tehsildar to submit a detailed report, perusal whereof, would reveal that, as per spot visit of Khasra No. 469, land measuring 7 ½ Marlas is in exclusive possession of the respondent. Lastly, he would submit that the learned trial Court has not considered this aspect of the matter and made the interim order dated 29.11.2023 absolute vide order dated 31.12.2024 due to which the respondent was constrained to file an appeal before the learned Appellate Court, who, after considering all the material facts and circumstances of the case passed the impugned order.

8. Mr. Sharma, has further produced a copy of the demarcation report dated 23.10.2025 issued by Tehsildar (EMIC), Khari, wherein it is stated that the demarcation was carried out in Khasra No. 469min. in presence of both the parties, photographs whereof, are also enclosed with the report (supra). It is further stated in the report that the land measuring 7 ½ Marlas is in possession of the respondent

and he has not done any encroachment. Copy of the report (supra) is taken on record.

9. Heard learned counsel for the parties and perused the material available on record.

10. Before advertng to the merits of the case, it is necessary to reiterate that the jurisdiction under Article 227 is supervisory in nature. This Court does not act as a court of appeal and cannot re-appreciate evidence or substitute its own view unless the order impugned suffers from patent illegality, perversity, or jurisdictional error. This Court is conscious of the well-settled legal position with respect to the scope and limits of supervisory jurisdiction under Article 227 of the Constitution of India. The Supreme Court, in the landmark judgment of **Shalini Shyam Shetty v. Rajendra Shankar Patil, (2010) 8 SCC 329**, has authoritatively delineated the distinction between the exercise of supervisory jurisdiction under Article 227 and appellate jurisdiction. It has been unequivocally held that supervisory jurisdiction is not to be invoked to correct mere errors of fact or law, however grave they may appear. Article 227 is intended to ensure that courts and tribunals function within the bounds of their authority and do not transgress the limits of their jurisdiction. It is not a forum for re-appreciation of evidence or re-evaluation of factual findings. Unless the impugned order is shown to suffer from patent illegality, jurisdictional error, perversity, or results in a manifest failure of justice, the High Court would not be justified in exercising its supervisory powers.

11. In the present case, the appellate court has passed a detailed and reasoned order after due consideration of the pleadings and material on record. The order does not disclose any jurisdictional infirmity or perversity that would warrant interference in exercise of supervisory jurisdiction. Merely because the petitioner is aggrieved by the conclusion reached by the appellate court, cannot be a ground to invoke Article 227 of the Constitution. This Court is not sitting in appeal over the findings recorded by the appellate court nor is it called upon to substitute its own views in matters involving appreciation of evidence or the exercise of equitable discretion.

12. In a recent judgment rendered in the case of **Nandi Infrastructure Corridor Enterprises Ltd. and another v. B. Gurappa Naidu and others, 2026 INSC 434**, the Supreme Court again considered the issue with regard to the exercise of power by High Court under Article 227 of the Constitution and after considering various judgments on the subject and in paragraph No.35 culled out three principles for exercising jurisdiction by the Court vested under Article 227 of the Constitution, which are as follow:

- a) *“The power of superintendence under Article 227 is not to be exercised unless there has been an (a) unwarranted assumption of jurisdiction, not vested in Court or tribunal, or (b) gross abuse of jurisdiction or (c) an unjustifiable refusal to exercise jurisdiction vested in Courts or tribunals.*
- b) *It is also well settled that the High Court while acting under this Article cannot exercise its power as an appellate court or substitute its own judgment in place of that of the*

subordinate court to correct an error, which is not apparent on the face of the record.

c) The High Court exercising supervisory jurisdiction does not act as a court of first appeal to reappreciate, reweight the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal.”

13. Applying the aforesaid principles to the facts of the present case, it can be said that neither there is unwarranted assumption of jurisdiction not vested in the Appellate Court nor gross abuse of jurisdiction; even there is no unjustifiable refusal to exercise jurisdiction vested in the appellate Court, warranting interference by this Court in exercise of jurisdiction vested in it by Article 227 of the Constitution of India.

14. The Appellate Court has relied upon the report of the Court commissioner appointed by the trial Court, which shows that land measuring 7 ½ marlas is in exclusive possession of the respondent, which aspect ought to have been considered by the trial Court while deciding the application seeking interim injunction. The Appellate Court while protecting the possession of the respondent over 7 ½ marlas of land has also directed Tehsildar Khari to depute some revenue officers on spot for demarcate the land in possession of the respondent, in presence of both the parties. The respondent has placed on record copy of the demarcation report submitted by the Tehsildar, Khari, a perusal whereof would show that land

measuring 7 ½ marlas comprising in khasra No.469 min is in possession of the respondent. It is also stated in the report that the demarcation was undertaken in presence of both the parties.

15. It is well settled that at the stage of interim injunction, the court is required to assess *prima facie* case, balance of convenience, and irreparable injury. The Appellate Court, instead of vacating the injunction, has only modified it to protect the possession of the defendant over the portion found in his occupation. This cannot be said to be an adjudication on title but merely a temporary arrangement to prevent disturbance of possession.
16. In light of the foregoing discussion, this Court is of the considered view that the impugned order passed by the learned appellate court neither suffers from any jurisdictional infirmity nor discloses any perversity so as to warrant interference in the exercise of supervisory jurisdiction under Article 227 of the Constitution of India.
17. In the present case, no such exceptional circumstances have been demonstrated. Accordingly, this Court finds no merit in the petition, and the same is, therefore, dismissed. It is, however, clarified that the observations made in this order, as well as those made in the impugned order of the Appellate Court, are confined to the adjudication of the present proceedings and shall not be construed as final or binding determination on the merits of the main suit. The trial court shall proceed

to decide the suit independently, uninfluenced by any such observations,
and in accordance with law.

(Moksha Khajuria Kazmi)
Judge

JAMMU
30.04.2026
Manan

Whether the order is speaking : *Yes*
Whether the order is reportable : *No*

