

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

CM(M) No. 49/2026

CM No. 1500/2026

Cav No.10/2026

Date of order:- 12.03.2026

Uploaded on:- 25.03.2026

- 1. Rajeev Gupta**, Age 50 years
- 2. Pardeep Gupta**, Age 45 years
Sons of Late Sh. Subash Chander,
R/O Village Tarlokpur (Bagla),
Tehsil Vijaypur, District Samba

....Petitioners

Through :- Mr. R. S. Thakur, Sr. Adv. with
Mr. Moti Sharma, Adv.

Versus

- 1. Principal District Judge, Samba**
- 2. Surinder Kumar**
S/O Sh. Chajju Ram,
R/O Village Tarlokpur (Bagla)
Tehsil Vijaypur, District Jammu.
- 3. Mohd. Saleem**
S/O Mohd. Shafi,
R/O Bari Bar, Raya Morh,
Tehsil Vijaypur, District Samba
- 4. Ram Parshad**,
S/O Bal Mukund,
R/O Jakh, Tehsil Vijaypur,
District Samba.

....Respondent(s)

Through :- Mr. Kapil Sharma, Adv.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

ORDER
12.03.2026

With the appearance of Mr. Kapil Sharma, Adv. on behalf of
caveator/respondent No.4, **Cav No.10/2026** stands discharged.

CM(M) No. 49/2026 & CM No. 1500/2026

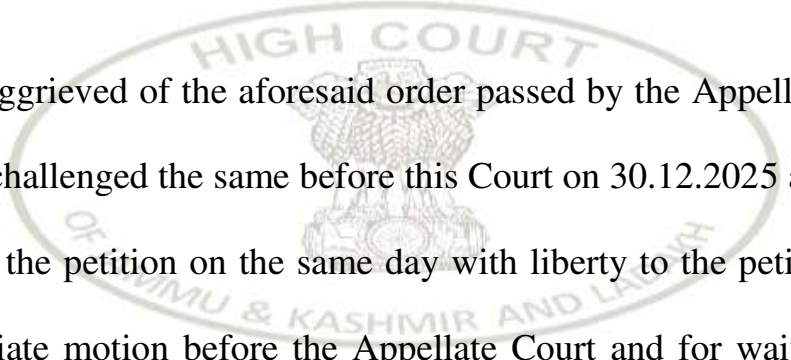
1. Petitioners, invoking the supervisory jurisdiction of this Court,
through the medium of this petition, seek to quash orders passed by the
learned District Judge, Samba dated 14.01.2026, whereby allegedly in

misappreciation and ignorance of the observations of this Court made in order dated 30.12.2025 passed in CM(M) No. 354/2024 titled 'Rajeev Gupta & Anr. V. Surinder Kumar & Ors.', the plea for preservation of the property, the subject of the suit titled as above, in status quo, and for setting aside the costs earlier imposed by his order dated 22.12.2025 were rejected; and to direct the demolition of the structure raised by the respondent No.3 in the suit land, measuring 8 marlas comprising of Khasra No. 4263/3674, situated at Jakh-Chimnachak road, Bagla, Tehsil Vijaypur, District Samba and maintenance of status quo ante on the spot pending disposal of the appeal, titled 'Rajeev Gupta & Anr. V. Surinder Kumar & Ors', before the Principal District Judge, Samba.

2. The petitioners have pleaded that respondent No.2, through respondent No.3, sold suit land to respondent No.4 vide registered Sale Deed dated 24.09.2009 and the petitioners' father Subash Chander filed a civil suit on 09.03.2009 asserting his preferential rights over the suit property; that the Court of Ld. Additional Special Mobile Magistrate, Samba (the 'Trial Court') on 06.12.2016, after being satisfied of a *prima facie* case, passed an interim order directing all parties to maintain status quo with respect to the suit property; that the Trial Court, however, dismissed the suit on 13.12.2024 having been abated and also dismissed the application on 19.03.2025 of the petitioners moved to set-aside the abatement order.

3. It is further contended that aggrieved of the aforesaid orders passed by the Trial Court, the petitioners preferred an appeal being Appeal No.05/2025 before the District Court, Samba; that the Appellate Court was pleased to stay the operation of both the impugned orders dated 13.12.2024 and 19.03.2025 and on an application moved on 08.11.2025 by the petitioners

for implementation of the status quo order and on appearance by respondent No.4, through his counsel Mandeep Singh Sambyal, parties were directed to maintain status quo on spot and that, in view of contravention of the status quo order by respondent No.4- Ram Parshad, the petitioners moved another application on 18.12.2025 for implementation of the order dated 06.12.2016 passed by the Trial Court, initiation of contempt proceedings, restoration of status quo ante and appointment of a local commissioner. However, the Appellate Court dismissed the application of the petitioners and imposed costs of Rs.20,000/-.

**4.** Aggrieved of the aforesaid order passed by the Appellate Court, the petitioners challenged the same before this Court on 30.12.2025 and this Court disposed of the petition on the same day with liberty to the petitioners to file the appropriate motion before the Appellate Court and for waiving of costs, with a request to the Appellate Court to consider the same sympathetically in accordance with law. However, the Appellate Court, vide Order dated 14.01.2026, dismissed the application seeking direction to the respondents for maintaining status quo with respect to the suit property and for waiving costs imposed by its order dated 22.12.2025.

5. Learned counsel for the parties submit that appellants and respondent No.4 are contesting parties and the matter can be heard. With the consensus of learned counsel for both the sides, the matter is taken up for final consideration.

6. The learned Senior counsel appearing for the petitioners, submits that the Trial Court, under a wrong notion that the suit was filed under the Prior Purchase Act which has been repealed now, ordered the suit dismissed as

abated; that against the dismissal of the suit, the petitioners approached the Appellate Court against the dismissal order and the Appellate Court admitted the appeal and on 22.04.2005 while observing that some arguable points have been raised in the appeal by the appellants, as such, the operation of the impugned orders dated 13.12.2024, whereby suit of the appellants plaintiffs was dismissed as abated and 19.03.2025, whereby application for recalling/setting aside the order dated 13.12.2024 had been dismissed by the Trial Court, were stayed, subject to objections from the other side.

7. The learned Senior counsel submits on behalf of appellants that later while seeking implementation of the status quo order passed by the Trial Court, the appellate court dismissed the application of the petitioners along with costs of Rs.20,000/- and on being approached with an application seeking review of this order in terms of the directions of this court passed in CM(M) No.354/2025, their application was again rejected. The learned Senior counsel submits that once an appeal is filed and the order, whereby the suit was dismissed, is stayed, in legal parlance, the interim orders passed by the Trial Court also get revived, particularly, when the appeal is admitted to hearing and otherwise also, it was incumbent upon the appellate court to order the protection of the suit property, so that no inconvenience is caused to the parties with the developing changes during the pendency of the litigation and he has finally prayed that this petition be allowed and the impugned orders be set aside.

8. Learned counsel for the respondent no.4, on the other hand, argued that since the suit of the petitioners filed before the Trial Court had been dismissed as abated, as such, there could be no question of revival of the

interim direction. He further submits that respondent no.4, being a bona fide purchaser of the suit land cannot be divested of his right to use the land in the manner he chooses to use, being owner thereof and that any order to restrain him from the use of the property shall be detrimental to his legal rights, as admittedly, he has purchased the land from the rightful owner of the property which had been challenged by the petitioners as his co-sharers. He further argued that the petitioners' case before the court below as projected in their plaint that they had a right of prior purchase in terms of the Prior Purchase Act and now they cannot turn around to say that they have this preferential right of purchase under some other statutes governing them, and prayed that the petition be rejected and the impugned orders be upheld.

9. Heard learned counsel for the parties, perused the file and considered the matter.

10. The suit that had been filed by the father of the petitioners against respondents 2 to 4 before the Trial Court, was based on a preferential right of purchase and as per the learned Senior counsel appearing for the petitioners, the petitioners had a preferential right not only under the Right of Prior Purchase Act, which is now repealed, but also under the Statutes governing the inheritance among Hindus, as such, the suit of the plaintiff could not have been defeated on this count that the Right of Prior Purchase Act had been repealed at the time of the Reorganisation of the State of J&K. The Trial Court's dismissal of the suit, having been abated, had been assailed before the Appellate Court, which had admitted the appeal to hearing, observing that arguable points for determination have been raised. In such a situation of the matter, it was incumbent upon the Appellate Court to order for protection of

the suit property and also to ensure that the suit of the petitioners before the Trial Court, if restored, does not suffer from the multiplicity of litigation due to developing changes in the suit property.

11. The impugned orders passed by the Appellate Court, in the aforesaid backdrop are not sustainable as the Appellate Court was well within its rights to pass the interim order for the protection of the suit property, the appeal being continuation of the suit before the Appellate Court. Both the orders dated 14.01.2026 and 12.12.2025 passed by the Appellate Court are, thus, quashed for the aforesaid reasons, with a direction to the Court below to hear the parties afresh with regard to the interim relief sought by the petitioners with regard to the protection of the suit property.

12. The parties shall appear before the Court below on the appointed date and the Court below is requested to consider passing of the appropriate direction for the interim relief prayed for expeditiously.

13. The appeal is, accordingly, **disposed of** along with connected application(s).

Jammu:
12.03.2026
Raj Kumar

(M.A. Chowdhary)
Judge

Whether the order is speaking? : Yes.

Whether the order is reportable? : Yes.