

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM(M) 25/2026 CM(264/2026).

HALEEMA BANO.

...Petitioner(s)

Through: Mr. Sheikh Hilal, Advocate.

VERSUS

MOHAMMAD IQBAL SHEIKH AND OTHERS.

...Respondent(s)

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE.

ORDER

31.01.2026

01. One- Sanuwallah Sheikh S/o Ghulam Rasool Sheikh initiated a civil suit against his sister- Mst Taja as defendant No. 1, Tehsildar Chadoora as defendant No. 2 and the State of J&K as defendant No. 3.
02. The suit was for declaration and injunction with respect to the suit property measuring **54 kanals** comprised in khasra **No. 627, 610, 628, 1589, 1821, 608, 610, 442, 443, 444, 445, 447, 452, 455, 1590, 1655, 1668, 1708, 1709 1745,70** in village Wadipora Tehsil Chadoora, District Budgam.
03. During the pendency of the civil suit, the plaintiff- Sanuwallah Sheikh had expired. Upon Sanuwallah Sheikh's death, some of his legal representatives namely

Mohammad Iqbal Sheikh, Javeed Ahmad Sheikh- as being sons, Mysara Bano, Waheeda Akhter- as daughters and Shareefa Bano as his widow came to substitute to carry forward the suit as plaintiffs.

04. The petitioner, despite being one of the daughters of the deceased-plaintiff- Sanuwallah Sheikh was left out from being named as one of the legal representatives of the deceased plaintiff-Sanuwalla Sheikh to be brought on record of the civil suit. The legal representatives brought on record as the plaintiffs entered into a purported compromise with the defendant No. 1 in which compromise came to make a purported settlement *qua* the suit property in the manner as set out therein, on the basis of which the suit was disposed of by virtue of a Lok Adalat Award dated **12.12.2020** on **File No. 2223** by the National Lok Adalat Bench No. 2.

05. A decree in the suit came to be passed by the trial court of District Judge, Budgam in the suit.

06. The decree disposed of the suit by stating that on the basis of compromise, the suit stood settled between the legal representatives and the defendant No. 1- Mst Taja,

meaning thereby that the defendants No. 2 and 3 were left out of the scope of the compromise decree.

07. The decreeing of the suit came to take place without bearing any reference to the Lok Adalat Award.

08. The date of decree, being **12.12.2020**, was surely at the back of the petitioner, otherwise being one of the legal heirs/representatives of the deceased plaintiff-Sanuwallah Sheikh.

09. The petitioner in order to assert her right *qua* the estate of her father came forward with a civil suit for declaration with consequential relief of partition, possession and permanent prohibitory injunction *qua* the entire suit property of 54 kanals and also sought a declaration to the effect that the compromise decree was a collusive decree passed at her back. The said suit came to be responded to by the defendants so named in her suit by the petitioner.

10. The petitioner thereafter on her own volition submitted an application before the Court of Munsiff Chadoora seeking withdrawal of the suit with liberty to file fresh one, which came to be granted in terms of an order dated **22.01.2026**.

11. Instead of availing the liberty so granted with respect to withdrawal of her suit with liberty to file fresh, the petitioner has taken a divergent route by coming forward with the present petition under Article 227 of the Constitution of India to impugn the Lok Adalat Award dated **12.12.2020** and also seeking the setting aside of the decree dated **12.12.2020** of the Civil Court of the District Judge, Budgam.

12. The very fact that withdrawal of the suit was sought by the petitioner with liberty to file fresh suit would surely mean that the present petition was never a conceivable remedy in the estimate of the petitioner at the time of seeking the withdrawal of her civil suit, and therefore under the cloak of Article 227 of the Constitution of India, the petitioner cannot have the luxury of seeking setting aside of a compromise decree passed by a civil court, which, *per se*, does not rest upon the Lok Adalat Award, as is borne out from the contents of the decree.

13. The only legal course of action available to the petitioner was filing of a fresh suit by acting upon the leave granted by the trial court of Munsiff Chadoora.

14. Learned counsel for the petitioner refers to the judgment of the Hon'ble Supreme Court of India in the case of **Dilip Mehta v. Rakesh Gupta And Ors.**, by reference to para 9, which is reproduced herein for the sake of reference:

9. This Court has, in a series of decisions, explained the consequence of this statutory finality. In **State of Punjab v. Jalour Singh (Supra)**, it was held that where an award is made by a Lok Adalat in terms of a settlement between the parties, it is final and binding and executable as a decree, and that no appeal lies against it. It was further held that any challenge to such an award must be brought before the High Court in proceedings under Articles 226 or 227 of the Constitution of India and only on limited grounds such as lack of consent, jurisdictional error or fraud. In **Bhargavi Constructions v. Kothakapu Muthyam Reddy (Supra)**, this Court applied the same principle to a civil suit which sought to impeach a Lok Adalat award

and held that a civil suit to set aside such an award is not maintainable and that the only proper remedy is a writ petition before the High Court.

15. The mandate of the judgment of the Hon'ble Supreme Court of India would not apply in the present case as the compromise decree passed in the present case *per se* does not state that it has been passed on the basis of a Lok Adalat Award. Had it been so, the Court of Principal District Judge, Budgam would not have missed mentioning the Lok Adalat Award in its decree dated **12.12.2020**.

16. The suit filed by the petitioner before the Court of Munsiff, Chadoora was in purported legitimate exercise of her right to succeed to the estate of her father in terms of Muslim Law of Succession and that purported right of the petitioner was not meant to be undermined by any compromise unless and until the petitioner is held to be privy to the said compromise. Otherwise also, the declaration sought by the petitioner's father in his civil suit was against the Tehsildar Chadoora as well as the State of J&K against whom the declaration obviously failed being not privy to the compromise and Lok Adalat Award.

17. Therefore, in the eyes of law, the decree so passed by the Court of Principal District Judge, Budgam would in no manner constitute, or have constituted the plaintiffs as well as the defendant No. 1 to be the owners of the suit land *qua* the State as well as the Tehsildar Chadoora, in case the suit land comprised in the aforesaid khasra numbers happens to be State land.

18. In the light of the aforesaid, this Court holds the petition intended to be maintained by the petitioner to be seriously misconceived. Hence, **dismissed**.

19. Dismissal of the petition shall not undermine the leave granted by the trial court in favour of the petitioner with respect to filing of a fresh suit.

(RAHUL BHARTI)
JUDGE

SRINAGAR
31.01.2026
Bisma Jan.