

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

WP(C) 196/2026 CM(468/2026)

SYED MANZOOR HUSSAIN SHAH

...Petitioner(s)/Appellant(s).

Through: Mr. Sheikh Imtiyaz, Advocate

Vs.

UT OF JK & ANR

...Respondent(s).

Through:

CORAM: HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE

ORDER

07.02.2026

1. Heard the learned counsel for the petitioner. Petitioner is also present in person.
2. The petitioner has obtained a decree dated 24.10.2017 in a suit titled "*Syed Manzoor Hussain Shah & Anr. Vs. Aisha W/o Late Syed Abdul Hamid Shah & Ors.*", bearing File No. 64, instituted on 02.09.2006, from the court of learned 1st Additional Munsiff, Srinagar, whereby his suit was decreed and the gift deed executed on 28.06.2006 and registered on 04.07.2006 was declared null and void to the extent of 5 marlas and 262 sq.ft of Banjri Kadeem land under Survey Nos. 4204 & 4205 situated at Zoonimar Tehsil Khas, Srinagar. After obtaining the decree, the petitioner appears to have approached the Revenue Department for execution of the said decree. The court of the Ld. Additional Deputy Commissioner, Srinagar, initiated the process for execution of the decree and came to pass an order dated 16.03.2022 directing the Tehsildar concerned to handover possession of the decreed land, i.e., 5 marlas & 262 sq.ft, to the decree holder/petitioner.
3. Aggrieved by the said order dated 16.03.2022 of the learned Additional Deputy Commissioner, Srinagar, a revision petition came to be filed before the learned Divisional Commissioner, Kashmir.
4. During the proceedings of the revision petition, an interim order of status quo dated 22.08.2022 is also reported to have been passed by the court of the

learned Divisional Commissioner, Kashmir. It is further reported that the court of the learned Divisional Commissioner, Kashmir finally remanded the matter back to the court of the Ld. Additional Deputy Commissioner, Srinagar for passing of appropriate orders, as he was already seized of the execution petition.

5. The court of the Additional Deputy Commissioner, Srinagar came to pass an order dated 14.05.2025, whereby the court observed that since the matter is under adjudication before the court of the learned City Munsiff, Srinagar, as such, it does not want to conduct the parallel proceedings and accordingly put on halt the proceedings in respect of the matter subject to outcome of the case before the civil court.
6. The decree holder/petitioner, being aggrieved of the said order dated 14.05.2025 of the learned Additional Deputy Commissioner, Srinagar, has approached this Court through the medium of the instant petition having been filed under Article 226 of the Constitution of India, praying therein for issuance of writs of certiorari and mandamus for quashing the said order dated 14.05.2025, with a simultaneous direction to respondent No. 2, i.e., the Deputy Commissioner, Srinagar to act in the matter as per the mandate of law, especially the provisions of Section 124 of the Land Revenue Act.
7. In the facts and circumstances of the case, this Court is of the opinion that the petitioner/decreed holder ought to have approached the court of learned 1st Additional Munsiff, Srinagar for execution of the decree, as the said court had passed the same. The court of the learned Additional Deputy Commissioner, Srinagar, before which the decree holder/petitioner had approached for execution of the decree, halted his proceedings on the ground that the matter is also under adjudication before the court of learned City Munsiff, Srinagar.
8. As per the provisions of the Order 21 Rule 10 CPC, where the holder of a decree desires to execute it, he shall apply to the court which passed the decree and if the decree has been sent for execution to another court, then to such court. The execution of the decree in question is governed under Rule 35 of

the Order 21 CPC. Obviously the court which passed the decree may have to sent the decree for execution to the revenue officers, before whom the petitioner/decreed holder has already approached. The petitioner/decreed holder, is still waiting for the execution of decree passed in his favour by the court on 24.10.2017, in his suit instituted on 02.09.2006. His suffering for want of execution of the decree can only be imagined not described. Admittedly, when the execution petition is pending in the court of Ld. ADC, Srinagar, he ought not to have halted the proceedings merely on the ground of pendency of litigation, may be between the parties to the decree in the court of Ld. City Munsiff, Srinagar, without being satisfied that the pendency of any such litigation or any order made therein operates as a legal bar for execution of the decree.

9. Accordingly, the instant petition is disposed of at this threshold stage, with the liberty to the petitioner/decreed holder to approach the court of Ld. 1st Additional Munsiff, Srinagar, which passed the decree sought to be executed, seeking the execution of the decree in question. In the event, the petitioner/decreed holder approaches the Ld. decretal court of 1st Additional Munsiff, Srinagar seeking the execution of the decree, the court shall expeditiously proceed under law on execution petition and address under law, queries, if any, raised by the Revenue courts which may be directed to implement the decree in question.

10. Disposed of.

**(MOHD YOUSUF WANI)
JUDGE**

SRINAGAR
07.02.2026
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