

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

WP(C) 327/2023
CM(1182/2023)

M/S BLUE FOX THROUGH ITS
PROPRIETOR/PARTNER SHAFIQ AHMAD ...Appellant(s)/Petitioner(s)
MAYER

Through: Mr. Shariq Haqani, Advocate

Vs.

JAMMU AND KASHMIR BANK LTD AND
ORS ...Respondent(s)

Through: Mr. Adil Asimi, Advocate

CORAM:

HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER
21.09.2026

1. Heard both the counsel.
2. Learned counsel for the respondents submits that, pursuant to the petitioner's request for settlement, the Bank had, vide sanction dated 30.09.2023, agreed to release the mortgaged property, i.e., land measuring 02 Kanals, 01 Marla and 06 Sarsai, falling under Khasra No. 2248/440/440-450 min, Khewat No. 153 and Khata No. 802, situated at Mouza Zain Kote, Kashmir, against payment of an amount of Rs. 2.25 crores by the petitioner. The petitioner, however, failed to comply with the said condition and, since 2023, has been avoiding settlement of the matter on one pretext or another.

3. When confronted with the aforesaid aspect, the counsel for the petitioner submits that his client is suffering from malignancy, which became the reason for his inability to comply with the conditions stipulated by the Bank.
4. Once the petitioner had availed financial assistance from the Bank by securing the same against the mortgaged property, it was his contractual obligation to discharge the loan liability in accordance with law. On the assurance extended by the petitioner, the Bank was persuaded to agree to the release of the mortgaged property; however, despite the same, the petitioner failed to comply with the directions of this Court.
5. This Court has every sympathy for the petitioner; however, insofar as contractual liabilities are concerned, it is for the petitioner to honour the same as and when called upon to do so. Any mitigating circumstance pleaded by the petitioner cannot come to his aid so as to defeat the lawful rights of the respondents to recover their dues from the secured assets.
6. For the aforesaid reasons, the prayer made in the present petition seeking a direction restraining the respondents from taking any action against the petitioner cannot be acceded to. Once the petitioner himself has failed to comply with the conditions stipulated under the settlement, he cannot turn around and raise a plea contrary thereto.
7. The petitioner also seeks issuance of a writ of mandamus commanding the respondents to perform an obligation which, in

fact, does not lie upon them. In matters arising out of contractual obligations, the petitioner cannot, as a matter of right, insist upon issuance of a writ of mandamus. It has been argued on behalf of the petitioner that the matter was directed to be settled under a special OTS Scheme, but, on account of the petitioner suffering from malignancy, he could not comply with the terms of the settlement. The said contention is strongly controverted by learned counsel for the respondents, who submits that no such issue was raised by the petitioner at the time of entering into the OTS.

8. Be that as it may, the present petition involves disputed questions of fact which cannot appropriately be gone into in exercise of the present writ jurisdiction.
9. Since the petitioner himself has failed to satisfy the conditions stipulated under the OTS, he cannot now seek a direction commanding the respondents to adhere to such settlement, particularly when, with the passage of time, the status of the secured assets has also undergone a change.
10. For the reasons recorded hereinabove, this petition is found to be devoid of merit and is, accordingly, **dismissed** along with the connected CM(s).
11. Interim direction(s), if any, shall stand vacated.

(SANJAY PARIHAR)
JUDGE

Srinagar
21.09.2026
"Imtiyaz"