

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

**CM (M) No. 140/2026
CM No. 2457/2026
Caveat No. 908/2026**

Farooq Ahmad Bhat, Age: 55 Years
S/O Mohd. Afzal Bhat
R/O Shankerpora, Pakherpora, Budgam.

... Petitioner(s)

Through: -
Mr Tariq M. Shah, Advocate with
Ms Arba Rehman, Advocate.
V/s

Ghulam Mohammad Mir
S/O Abdul Ahad Mir
R/O Kashwa Chitragam, Shopian.

... Respondent(s)

Through: -
Mr Bilal Ahmad Malla, Advocate.

CORAM:

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

(ORDER)
29.04.2026

Caveat No. 908/2026:

01. With the appearance of Mr Bilal Ahmad Malla, the learned Counsel, on behalf of the Caveator/ Respondent, Caveat No. 908/2026 shall stand **discharged**, accordingly.

CM (M) No. 140/2026; CM No. 2457/2026:

02. The Petitioner has moved this Petition invoking supervisory jurisdiction of this Court under Article 227 of the Constitution of India challenging the Order dated 8th of April, 2026 passed in an Execution Petition No. 03/2025 titled '**Ghulam Mohammad Mir v. Farooq Ahmad Bhat**', pending on the files of the Principal District Court, Shopian, whereby the application filed by the Decree Holder/ Respondent herein for auction and sale of the residential house of the Judgment Debtor/ Petitioner herein situated on a piece of land comprising Survey No. 517 Min of village Shankerpora has been allowed, with further direction to auction the same

for release of the decretal amount and the Tehsildar, Charar-i-Sharief has been directed to conduct the sale in accordance with Order XXI Rules 64 to 69 of the Code of Civil Procedure (CPC).

03. The learned Counsel for the Petitioner submits that the Court below, in a Suit under Order XXXVII of CPC for recovery of an amount of Rs. 58.00 lacs, along with interest, had decreed the Suit vide Judgment dated 31st of December, 2024 granting the Suit in favour of the Plaintiff/ Respondent herein for recovery of an amount of Rs. 58.00 lacs along with interest @ 7% per annum from the date of filing of the Suit against the Defendant/ Petitioner herein. He further submits that aggrieved of the Judgment and Decree dated 31st of December, 2024 passed by the District Court, Shopian, the Defendant/ Petitioner herein, as Appellant, filed an appeal before this Court bearing RFA No. 40/2025, wherein this Court, in terms of Order dated 2nd of June, 2025, had stayed the execution of the Decree subject to furnishing of bank guarantee of the decretal amount by the Petitioner.

04. Learned Counsel for the Petitioner, however, submits that due to financial constraints, the Petitioner could not file the required bank guarantee and, as such, the Court below has initiated to enforce the Decree against the Petitioner herein with a direction to the Tehsildar concerned to proceed in the matter to auction the residential house of the Petitioner for recovery of the decretal amount. He has submitted that the Petitioner, besides the residential house, has also some other landed property for which attachment and sale could have been ordered, however, the Executing Court had chosen to auction the residential house of the Petitioner, thereby causing severe difficulty not only to the Petitioner but his entire family as they shall be rendered homeless, as such, the Petitioner has been constrained to file the instant Petition.

05. The learned Counsel for the Respondent submits that the Petitioner has not come forward to deposit the bank guarantee of the decretal amount, so as to ensure that the Executing Court does not enforce the Decree, as directed by this Court in RFA No. 40/2025 and, instead, the

Petitioner has been trying to delay the matter, so as to divest the Decree Holder/ Respondent herein from reaping the fruits of his long-drawn litigation for recovery of the decretal amount. He contended that the filing of the subsequent Petition in the same matter by the Petitioner is another ploy to frustrate the duly earned rights of the Decree Holder/ Respondent herein with respect to recovery of the decretal amount.

06. Heard learned Counsel for the parties and perused the pleadings available on record.

07. Having regard to the pleadings of the parties, submissions made at the Bar on behalf of both the sides and the facts and circumstances of the case, it is evident that the Petitioner, as Judgment Debtor, has neither complied with the Decree passed by the Civil Court nor with the orders of this Court passed in RFA No. 40/2025, which appeal was filed by the Petitioner himself, wherein interim relief of stay of the execution proceedings was granted subject to Petitioner furnishing the bank guarantee of the decretal amount.

08. The Petitioner, besides failing to furnish the requisite bank guarantee as directed by this Court, has also not volunteered before the Court below to provide the details of some other property which could be encumbrance-free, so as to attach and auction the same for recovery of the decretal amount. In such a situation, the Court below, by passing the Order impugned, has not committed any illegality or perversity, so as to warrant an interference by this Court while exercising supervisory jurisdiction, more so, the Petitioner cannot be allowed to take advantage of his faults.

09. Viewed thus, the present Petition is found to be misconceived, as a result, the same is **dismissed** in *limine*, along with the connected CM.

(M. A. CHOWDHARY)
JUDGE

SRINAGAR

April 29th, 2026

"TAHIR"