

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

**WP(C) No. 1275/2026
CM No. 3408/2026**

Haji Ab. Ahad Bhat and Another

...Petitioner(s)

Through: Mr. M. Ayoub Bhat, Advocate with
Ms. Ms. Mehjabeen, Advocate

Vs.

**Union Territory of Jammu &
Kashmir (Home) and Others**

...Respondent(s)

Through:

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER
29.06.2026

- 01.** The two petitioners came to institute a civil suit on
10.09.2023 before the court of Munsiff, Ganderbal
naming the respondents 4 to 6 herein as three
defendants.
- 02.** Through the medium of said suit, the petitioners
are seeking a decree of permanent prohibitory
injunction qua the suit land measuring 60 kanals
relatable to khasra Nos. 331, 324, 323, 301, 434, 336,

335, 337, 338 & 342, situated at Khurhama, Tehsil Wakoora, District Ganderbal, Kashmir.

03. In said Civil Suit, the court of learned Munsiff, Ganderbal passed an ad-interim ex parte injunctory order dated **12.09.2024**, although in the certified copy of said order institution of the civil suit is being referred to **10.09.2023** and passing of ad-interim ex-parte order being **12.09.2024**.

04. The petitioners, during pendency of the civil suit, came forward with an application No. **39 of 2026** on **21.01.2026** before the Chief Judicial Magistrate, Ganderbal invoking section **175(3)** of Bhartiya Nagrik Surakhsha Sanhita-2023 seeking direction unto SHO Police Station, Kheerbhawani, alleging that respondents 4 to 6 joined by the respondent No.10 for committing alleged culpable act of criminal trespassing and damage to the Tin Gate installed at the site of 60 kanals of ownership land without disclosing the khasra numbers relatable thereto.

05. The court of Chief Judicial Magistrate, CJM Ganderbal, instead of coming of the straight forward direction unto SHO, Police Station Kheerbhawani for

registration of FIR against the four non-applicants named by the petitioners as the culprits, solicited a report from the SHO, Police Station, Kheerbhawani in response where to the court of Chief Judicial Magistrate, Ganderbal came up with final order dated **22.04.2026**, holding that as per police report there is no disclosure of any cognizable offence and the matter appears to be a civil nature related to right of easement and thus no ground made out for issuance of a direction under section **175(3)** of Bhartiya Nagrik Surakhsha Sanhita-2023.

06. The court of Chief Judicial Magistrate, Ganderbal, by its order dated **22.04.2026**, has not prejudiced the cause of the petitioners in the context of civil suit pending before the court of Munsiff, Ganderbal and has even recommended the petitioners to seek proper damages from the said civil court.

07. The petitioners, through the medium of the present petition under Article **226** of the Constitution of India, are seeking to stretch the controversy by challenging the order of the Chief Judicial Magistrate, CJM Ganderbal.

08. The virgin version of the petitioners relatable to the alleged incident is in the application made to SHO, Police Station Kheerbhawani, wherein the petitioners without mentioning the khasra numbers relatable their alleged ownership of 60 kanals of land and in particular khasra number having the installation of Tin Gate at the site, expected the SHO, Police Station, Kheerbhawani to take the words and the version of the petitioners as gospel truth and book named four non-applicants as accused persons.

09. If the petitioners were lacking in full factual version, then just by mere averment that damage to main Tin Gate of petitioners was caused would not constrain SHO, Police Station, Ganderbal or for that matter even Chief Judicial Magistrate, Ganderbal to come up with a readymade direction for registration of FIR at the instance of the petitioners against the non-applicants.

10. Mr. M. Ayoub Bhat, learned advocate for the petitioners urged this court that just by mere assertion that gate has been damaged is a good enough fact reporting to result in registration of FIR and

unleashing of a criminal investigation against the applicants.

11. Commission of offence is a fact-based incident.

This Court can understand if a stranger to an incident is reporting a commission of a cognizable offence to a Police Station so as to be excused from burden of reporting full version of facts but when it is a matter of ownership of a landed property qua which commission of a cognizable offence is being reported by none other than the owners themselves, then one liner averment that tin gate was damaged by naming four accused persons without even stating as to which of the accused person first came up with damage action to the tin gate is surely not a sound fact reporting on the basis whereof immediate registration of FIR by Police Station to be resorted to.

12. If this type of repertory is allowed, then the Police Station would be soon becoming a privy to land disputes, which are otherwise cognizable by the civil courts to intervene, and make the rule of law the first casualty.

13. This Court is avoiding getting further under the skin of the facts relatable to the present case lest it causes any serious prejudice to the case of the petitioners in the civil suit for which court of Chief Judicial Magistrate, Ganderbal has commended the petitioners to resort to appropriate remedy and therefore, this Court does not find any illegality in the exercise of discretion at the end of the Chief Judicial Magistrate, Ganderbal in passing order dated **22.04.2026.**

14. Accordingly, this petition is not entertained and hereby **dismissed** in limine.

15. Nothing observed by this Court in the present order shall be taken to be a reflection on the merits of the case and cause of the parties to the civil suit pending adjudication before the court of Munsiff, Ganderbal.

16. Therefore, this Court does not agree with the submission of Mr. M. Ayoub Bhat that the singular reference about the damage to the gate was good enough to register FIR.

(RAHUL BHARTI)
JUDGE

SRINAGAR:
29.06.2026
Imtiyaz