Serial No. 13
REGULAR CAUSE LIST

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

CM(M) No. 222/2026
CM No. 3625/2026
Caveat No. 903/2026

Fayaz Ahamad Khan **...Petitioner**

Through: Mr. Sheikh Younis, Advocate

Vs.

Fayaz Ahamd Mir **...Respondent**

Through: Mr. Gowhar Majeed Dalal, Advocate for the caveator

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER

01.07.2026

01. Mr. Gowhar Majeed, Advocate appears for the caveator. Accordingly, caveat stands discharged.

02. The petitioner Fayaz Ahamad Mir is a defendant in civil suit preferred by the respondent Fayaz Ahamd Mir seeking permanent/mandatory injunction with respect to suit shop which is said to have been in use and occupation of the respondent as a tenant of the petitioner wherefrom the respondent apprehending his eviction without adopting due course of law led himself to a cause of action for suing

the petitioner. The civil suit is before the court of Sub Judge, Ganderbal. Institution of the civil suit is of **24.03.2022**.

03. By virtue of order dated **19.02.2024**, the court of Sub Judge, Ganderbal disposed of temporary injunction application under **order 39 rule 1 and 2 of Code of Civil Procedure-1908** restraining the petitioner from causing any interference into the suit shop and also effecting dispossession of the plaintiff till the disposal of the suit.

04. Aggrieved of said order, the petitioner as a defendant preferred the miscellaneous appeal under **Order 39 rule 1 of Code of Civil Procedure-1908** before the court of Additional District Judge, Ganderbal which has resulted in failure in terms of order dated **24.04.2026**, against which the petitioner is now coming forward with the challenge under **article 227** of the Constitution of India which is going to laid petitioner nowhere except waste his time in doing what is post is done at his end as the owner of the suit shop qua the respondent be it as a tenant or otherwise of the petitioner.

05. This Court is not inclined to grant indulgence in the matter except for one modification with respect to the basic

order dated **19.02.2024**, wherein the trial court of learned Sub Judge has restrained the petitioner till the final disposal of the suit. The injunctory direction instead ought to have been restraining the petitioner from disturbing the possession of the respondent qua the suit shop without adopting the due course of law so that the petitioner was not to be kept on wait till disposal of the civil suit preferred by the respondent for initiating eviction proceedings if the petitioner choses to initiate against the respondent. Accordingly, this Court modifies the order dated **19.02.2024** to this extent that the petitioner is restrained from disturbing the possession or dispossessing the respondent from the suit shop without adopting due course of law.

06. Dispose of.

07.

(RAHUL BHARTI)
JUDGE

SRINAGAR:
01.07.2026
Imtiyaz

Imtiyaz Ul Gani
I attest to the accuracy and
authenticity of this document
07.07.2026 09:31