

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

**CM No. 374/2026 In
CM(M) No. 228/2025**

Sonaullah Ganie

...Petitioner(s)

Through: Mr. M.A. Wani, Advocate

Vs.

Union Territory of J&K and Ors.

...Respondent(s)

Through: Ms. Mahajabeen, Advocate

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER

16.02.2026

1. The Court of Principal District Judge, Baramulla in a civil suit on file No. **55 of 2017** instituted on **30.08.2017** preferred by the respondent No.3 against the petitioner decreed the suit for recovery of Rs. 19.50 lacs.

2. By virtue of judgment and decree dated **23.11.2019** recovery of the decretal amount of Rs. 19.50 lacs was ordered along with interest at the rate of 9% per annum from the date of filing of suit till actual realization of the decretal amount.

3. Against the said judgment and decree, the judgment debtor i.e., the petitioner had come forward with a Regular First Appeal under **Section 96** of the **Jammu and Kashmir Code of Civil Procedure, 1977 (Samvat 1977)**).

4. **RFA No 11/2023** preferred before this Court, which came to be unconditionally withdrawn by the petitioner acting through his counsel and, as such, by virtue of order dated **08.04.2025**, the said Regular First Appeal **11/2023** came to be dismissed as withdrawn.

5. Further, not only this another appeal RFA No. **53/2024** also preferred before this Court came to be withdrawn by virtue of order dated **24.07.2024**. After availing the remedy of civil first appeal against the decree of the trial court and then making unconditional withdrawal the petitioner come forth with the novelty of its own kind with presentation of a petition under **Article 227** of the Constitution of India invoking supervisory jurisdiction against the same decree by alleging that it is vitiated on account of being fraud. If this was the aspect that the decree was so seriously vitiated by fraud, then the petitioner ought not to have withdrawn his two civil first

appeals from this Court and come back to this Court by way of a supervisory petition under Article **227** of the Constitution of India.

6. A Civil first appeal under **Section 96** of the **Code of Civil Procedure, 1908** is a co-extensive jurisdiction both on facts as well as on law and, thus, this Court have examined the decree inside out on every aspect said or unsaid from the end of the judgment debtor as against the said option seeking supervisory jurisdiction under **Article 227** of the Constitution of India is very constricted jurisdiction in which even errors of law are not meant to be corrected by this Court unless and until there is a seriously flawed exercise of jurisdiction by Subordinate Courts.

7. This Court is not meant to declare a money decree passed by the trial court to be a fraud just on the asking of a judgment debtor who himself is not sure which remedy is to be pursued, one which law had given him as a matter of right and the one which law does not give as a matter of right but only vest reserves with this Court.

8. In the light of this the present petition is held to be seriously misconceived and is, accordingly, **dismissed.**

(RAHUL BHARTI)
JUDGE

SRINAGAR:
16.02.2026
Shabroz