

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

**RFA No. 69/2026
CM No. 4026/2026
Caveat No. 772/2026**

Mohd Latief Mir and Another

...Petitioner(s)

Through: Mr. M. A. Makhdoomi, Advocate

Vs.

**Smt. Krishan Dhar (Deceased)
through her legal heirs**

...Respondent(s)

Through: Mr. Gowhar Majed Dalal, Advocate for the caveators

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

**ORDER
07.07.2026**

1. On the basis of a purported agreement to sell dated **21.02.2017**, two appellants are said to have made a deal with the respondent No.2, otherwise non-owner, for purchase of a property comprising of a plot of land measuring 2 kanals 11 marlas in khasra No. **14379/514-516** situated at Moza Humhama Tehsil & District Budgam.

2. The original owner of the land forming subject matter of the alleged agreement to sell is the respondent No. 1 Smt. Krishan Dhar who had, by no stretch of claim and reference has or had authorized the respondent No.2-Shri Brij Nath Bhat, or that matter the respondent No.3-Gh. Mohd Sheikh, to carry out any prospective dealing for the alienation of her said property.

3. The appellants, thus, acted contrary to the dictum of *buyer beware* without making due diligence with respect to very authority of the respondent No.2-Brij Nath Bhat to come forward and propose land mentioned in the alleged agreement to sell for sale to them for and on behalf of the respondent No. 1-Smt. Krishan Dhar.

4. The appellants preferred a civil suit on **File No. 89/N on 27.10.2017** before the court of Principal District Judge, Budgam which came to be seriously contested by the respondent No. 1-Smt. Krishan Dhar, the original owner of the land forming

subject matter of alleged agreement to sell, and upon her demise by her legal representatives.

5. After a pendency of more than nine years, it finally fell to attention of the court of learned Principal District Judge, Budgam that the suit is not maintainable and deserves a knock out under **Order 7 rule 11 of J&K Code of Civil Procedure, Samvat-1977.**

6. The suit, thus, came to be dismissed in terms of order dated **06.04.2026** which is in a sense rejection of the plaint although the court of Principal District Judge, Budgam has made purported reference to the application of **Jammu and Kashmir Migrants Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act 1977** creating a bar for civil court to take cognizance of a matter related to migrant property but there was no scope for such an Act to be contemplated and acted in the face of the fact that respondent No. 1-Smt. Krishan Dhar was never a party, directly or indirectly and /or by design or default, to the alleged agreement to sell

for which specific performance of contract was being sought by the two appellants.

7. This Court at the most can say that the two appellants invited themselves to be duped by imposters which are the respondents 2 and 3 for which the original properly owner the respondent No.1 has not to have been bothered with litigation burden which remained to act upon respondent No. 1 and after her upon her legal representatives for nine years.

8. This Court, thus, finds no reason to entertain this civil first appeal under **section 96 of the Code of Civil Procedure, Samvat-1977**, which is accordingly, dismissed.

9. The appellants are left to their remedy against the respondents No. 2 and 3 at whose hands the appellants suffered alleged duping and the appellants are well their right to pursue with legal course of action be it for recovery of the money advanced or criminal prosecution of two persons who so dealt cheatingly with the appellants.

10. In the light of this, the appeal is not entertained and is hereby **dismissed** along with connected CM/s.

(RAHUL BHARTI)
JUDGE

SRINAGAR:
07.07.2026
Imtiyaz