

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

**CM(M) 239/2023
c/w CM(M) 206/2023**

Mohammad Ramzan Bhat

...Petitioner(s)

Through: None

Nazir Ahmad Bhat and Ors.

सत्यमेव जयते

...Respondent(s)

Through: Mr. Sheikh Manzoor, Advocate

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER

13.02.2026

1. The petitioner-Mohammad Ramzan Bhat is a plaintiff in a civil suit preferred and pending before the Court of Sub Judge (Special Mobile Magistrate), Budgam.

2. In his said civil suit, the petitioner came to name seven defendants led by the Municipal Council, Budgam.

3. In the array of defendants, defendants No. 3 to 7 are the private persons who are the respondents No. 1 to 5 in the present petition.

4. Along with the suit, the petitioner preferred an application under Order 39 Rule 1 and 2 of the Code of Civil Procedure, 1908 seeking temporary injunction.

5. The Court of Sub Judge (Special Mobile Magistrate), Budgam, by virtue of order dated 06.09.2023, came to hold that the petitioner has made out a *prima facie* case in his favour with balance of convenience also tilted in granting the temporary injunction so as to prevent irreparable injury getting caused to the petitioner's cause in the suit.

6. From the end of the defendants No. 3 to 7, there came to be a counter claim which was also accompanied with an application for grant of temporary injunction in their favour against the petitioner.

7. The temporary injunction application of the private defendants No. 3 to 7 was held to be lacking *prima facie* case.

8. Thus, by virtue of order dated 06.09.2023, the trial court of Sub Judge (Special Mobile Magistrate), Budgam came to be restrain the defendants from causing any kind of obstruction in raising of construction of residential house by the petitioner,

who was allowed to complete the process of construction with an undertaking before the Court that rain/snow water and the sewerage will not drain into the compounds of the private defendants and the height of the proposed double storied house not to exceed 28 feet in view of the condition No. 2 laid down in the building permission.

9. The petitioner was also put to some further conditions in the order dated 06.09.2023, the purport of which was to facilitate the petitioner to carry out the building permission related construction.

10. Against said order dated 06.09.2023 of the Court of Sub Judge (Special Mobile Magistrate), Budgam, a civil miscellaneous appeal under Order 43 Rule 1(r) of the Code of Civil Procedure, 1908 came to be preferred by the private defendants No. 3 to 7 before the Court of learned Additional District Judge (Fast Track Court), Budgam.

11. In the said appeal, the learned Court of Additional District Judge (Fast Track Court), Budgam came to direct notice which was accepted on behalf of the petitioner being on caveat.

12. The appeal was admitted to hearing, while sending for the records of the trial court and in the meantime operation of order dated 06.09.20223 was put to stay with a direction for the parties to the suit to maintain status quo on spot.

13. It is at this stage of indulgence on the part of the appellate court of learned Additional District Judge (Fast Track Court), Budgam that the petitioner came rushing to this Court with a petition under Article 227 of the Constitution of India for supervisory jurisdiction with respect to the legality and validity of the interim order dated 14.09.2023 of the Court of learned Additional District Judge (Fast Track Court), Budgam.

14. This Court, by virtue of order dated 22.09.2023, came to order stay of operation of order dated 14.09.2023 of the Court of learned Additional District Judge (Fast Track Court), Budgam and simultaneously directing the situation to be governed in terms of order dated 06.09.2023 passed by this Court in CM(M) No. 206/2023 which also stood preferred by the petitioner-Mohammad Ramzan Bhat against an order dated 12.08.2023 of the learned Additional District Judge (Fast Track Court), Budgam

in an appeal against order dated 17.07.2023 passed by the Court of Sub Judge (Special Mobile Magistrate), Budgam.

15. Thus, the Court of learned Additional District Judge (Fast Track Court), Budgam, was seized of two civil miscellaneous appeals on File No. 133/CMA instituted on 27.07.2023 in case titled "*Nazir Ahmad Bhat and Ors. Vs. Mohammad Ramzan Bhat and Ors.*" and CNR No. JKBG020014432023 instituted on 11.09.2023 in case titled "*Nazir Ahmad Bhat and Ors. Vs. Mohammad Rramzan Bhat and Ors.*"

16. Given the fact that this Court came intervening in the matter with respect to the pending civil miscellaneous appeals, as such, this Court is not supposed to enter into any merit related and based evaluation with respect to the orders which are to be considered in appeal by the Court of learned Additional District Judge (Fast Track Court), Budgam in exercise of its appellate jurisdiction invoked by the private defendants against the appealable orders passed by the Court of Sub Judge (Special Mobile Magistrate), Budgam.

17. Therefore, this Court disposes of these two petitions with a direction to the Court of learned Additional District Judge (Fast Track Court), Budgam to carry forward with the adjudication of the pending civil miscellaneous appeals and dispose of the same by or before 31st March, 2026.

18. The parties are directed to appear before the Court of learned Additional District Judge (Fast Track Court), Budgam on 23.02.2026.

19. The interim directions as given in the order dated 22.09.2023 in CM(M) No. 239/2023 and in terms of order dated 06.09.2023 in CM(M) No. 206/2023 shall remain operative till final adjudication of the appeals by the Court of learned Additional District Judge (Fast Track Court), Budgam.

20. This Court makes it clear that observations of this Court operating in terms of order dated 22.09.2023 in CM(M) No. 239/2023 and order dated 06.09.2023 in CM(M) No. 206/2023 shall not be of any influence upon the Court of learned Additional District Judge (Fast Track Court), Budgam, which shall be free to invest its own judicial mind and carry

out merit based adjudication of the pending two appeals.

21. Registrar Judicial, Srinagar is directed to forward a copy of this order to the Court of learned Additional District Judge (Fast Track Court), Budgam.

22. **Disposed of.**

SRINAGAR:

13.02.2026

"Mir Arif"

