

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

WP(C) 2239/2026

CM(6094/2026)
Caveat 2141/2026

NAZKEEN AHMAD DAR

...Appellant(s)/Petitioner(s)

Through: Mr. Shariq J Reyaz, Advocate with
Mr. Zaid Mehra, Advocate

Vs.

UT of JK and others

...Respondent(s)

Through: Mr. A, Chesti, Advocate for the caveator/respondent No.5

CORAM:

HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER
11.09.2026

1. Heard, learned counsel for the petitioner and the respondent No.5/caveator.
2. Caveat stands discharged. During the course of the hearing, it has been brought to the notice of this Court that the order impugned in the present petition is appealable in terms of Section 7 of the J&K Migrant Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act, 1997 (for short, "the Act").
3. Ld. counsel for the petitioner submits that the impugned order has been passed despite the respondent-Deputy Commissioner having been apprised of the fact that a civil suit is pending and that an order of status quo is operating therein. It is submitted that, since the civil

court was already seized of the matter, the Deputy Commissioner ought to have stayed his hands instead of passing the impugned order. He however, fairly concedes that the impugned order is appealable. He also concedes that the order is not without jurisdiction. The only contention raised by him is that the impugned order could not have been passed when the civil court had already been directed to frame an issue with regard to the maintainability of the suit and thereafter proceed with the case. It is further contended that, until the suit is decided, the parties have been directed to maintain status quo and that the effect of the impugned order is such that, if the petitioner is evicted, his suit would be rendered infructuous.

4. Be that as it may, since the impugned order is appealable, all the pleas raised in the present petition can be agitated before the appellate court, the appellate proceedings being in the nature of a continuation of the original proceedings. In that view of the matter, the present petition is not maintainable in view of the availability of an alternative efficacious remedy, which the petitioner can avail of. Accordingly, the petition is dismissed as not pressed, with liberty to the petitioner to avail of the remedy of appeal within a period of four weeks, positively. Till then, there shall be status quo with regard to the subject matter of the proceedings. Once the appeal is filed, it shall be open to the appellate forum to pass appropriate orders in accordance with law, uninfluenced by the direction of status quo granted by this Court.

5. A copy of this order be provided to learned counsel for both the parties under the seal and signature of the Bench Secretary of this Court.

(SANJAY PARIHAR)
JUDGE

Srinagar
11.09.2026
“Imtiyaz”

