

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM(M) 447/2025 CM(6754/2025).

WALI MOAHMMAD SHEERGUJRI AND ORS.

...Petitioner(s)

Through: Mr. I. Sofi, Advocate.

VERSUS

ABDUL RASHEED SHEERGUJRI AND ANR.

...Respondent(s)

Through: Mr. Altaf Mehraj, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE.

ORDER

07.02.2026

01. The two respondents have commenced a civil suit against the five petitioners herein before the Court of Munsiff (Additional Special Mobile Magistrate), Bandipora, thereby seeking a decree of permanent prohibitory injunction restraining the petitioners from interfering with the land falling under khasra **No. 2475**, measuring **4 marlas** situated at village Quilmuqaam, Bandipora.

02. Accompanying the civil suit, the respondent have filed an application under Order 39 of the Code of Civil Procedure, 1908 seeking a temporary injunction for restraining the petitioners **from evicting or dispossessing** the respondents from the suit land falling under khasra **No. 2475** min, measuring 4 marlas situated at Quilmuqaam, Bandipora either through **herself** or through any other agency.

03. However, in the array of defendants, there is no woman named so as to be addressed as “**herself**” in the said temporary injunction application.

04. In the application seeking temporary injunction, there is no averment seeking dispensation of issuance of prior notice to the defendants/non-applicants which is a mandatory requirement under Order 39 rule 3 of the Code of Civil Procedure, 1908, for vesting jurisdiction in a trial court to pass an *ex parte* ad-interim injunction order.

05. Unmindful of the aforesaid deficiencies in the application in terms of essential averments, the trial court of Munsiff (Additional Special Mobile Magistrate), Bandipora by virtue of an order **19.09.2025** came to grant a temporary injunctory direction thereby restraining the petitioners from causing any sort of interference with the suit land under khasra **No. 2475** situated at Quilmuqaam Bandipora, though subjecting the said order to objections from the other side.

06. Armed with said order dated **19.09.2025**, the two respondents, as plaintiffs, came forward with an application seeking implementation of said order dated **19.09.2025** through the SHO, Police Station Bandipora.

07. The date fixed for appearance of the petitioners as defendants in the suit was **9th October, 2025**, whereas the application seeking implementation of the order **19.09.2025** came to be filed

prior to next date of hearing fixed for appearance of the defendants in the suit.

08. The Trial Court of learned Munsiff (Additional Special Mobile Magistrate), Bandipora, obliged the respondents by issuing an order dated **04.10.2025** directing the SHO of the concerned Police Station to proceed onspot, inform the petitioners about the order of the Court dated **19.09.2025** and, if the need so arise, to implement the same in case any violation is found in its letter and spirit, and thereafter to submit a compliance report.

09. Read between the lines, the Court of Munsiff (Additional Special Mobile Magistrate), Bandipora in effect appointed SHO of the concerned Police Station as a Chowkidar of the suit property for the benefit of the respondents and this is where an excess of jurisdiction came to be committed by the learned Court of Munsiff (Additional Special Mobile Magistrate), Bandipora which, in fact, had begun with the issuance of an *ex-parte* temporary injunction against the petitioners without any prayer made from the end of the respondents seeking dispensation of prior notice.

10. The petitioners, thus, found themselves caught in a catch-22 situation of literally being non-suited in the suit in terms of their defence even before causing their appearance before the trial court and, therefore, have rushed to this Court by way of the present petition under Article 227 of the Constitution of India seeking examination of the legality and validity of the orders and

the vitiated exercise of jurisdiction on the part of the Court of Munsiff (Additional Special Mobile Magistrate), Bandipora.

11. For the reasons stated above, this Court is convinced that the trial court has seriously faulted in due and proper exercise of jurisdiction at its end rendering both the orders dated **19.09.2025** and **04.10.2025** illegal. Accordingly, both said orders are set aside.

12. It has been apprised to this Court that the petitioners have already filed their written statement/s as well as their reply/ies to the temporary injunction application.

13. Therefore, the Court of Munsiff (Additional Special Mobile Magistrate), Bandipora is directed to take up the adjudication of temporary injunction application filed by the respondents and dispose of the same within a period of 30 days from the date of passing of this order.

14. A copy of this order to be forwarded by the Registrar Judicial, Srinagar to the Court of Munsiff (Additional Special Mobile Magistrate), Bandipora for notice and compliance.

(RAHUL BHARTI)
JUDGE

SRINAGAR
07.02.2026
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