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Supp

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM No. 3364/2025
In CM(M) No. 211/2025
CM No. 3365/2025
Caveat No. 1024/2025
..... Petitioner (s)

Rakesh Kumar Choudhary

Through: Mr. A H Naik, Sr. Adv.
with Mr. Zia, Adv.

V/s

Union Territory of J&K & Ors Respondent(s)

Through: Mr. Mohsin Qadiri, Sr. AAG
with Ms. Maha Majeed, Adv.
Mr. Shabir Ahmad, Adv.
vice Mr. Fayaz Ahmad Mir, Adv.

Coram:

Hon'ble Mr. Justice Sanjay Dhar, Judge

ORDER
30.05.2025

Caveat 1024/2025:

1. With the appearance of Mr. Shabir Ahmad, Advocate appearing vice Mr. Fayaz Ahmad Mir, Advocate caveat as such shall stand discharged.

CM No. 3364/2025:

2. For the reasons stated in the application, the same is allowed and the requirement of filing certified copies of order dated 31.10.2024 and 08.11.2024 is dispensed with.

CM(M) No. 211/2025:

3. The petitioner, through the medium of present petition, has challenged order dated 31.10.2024 passed by the learned Civil Judge, Junior Division (City Judge), Srinagar whereby in a suit filed by respondent No. 4 (hereinafter the “plaintiff”), respondents No. 1 to 3 (hereinafter “the defendants”), have been temporarily restrained from interfering in the usage and pathway so as to have access to his land measuring 01 Kanal and 13 Marlas along with dilapidated structure existing on it situated at Tang Bagh, Boulevard Srinagar.
4. Heard and considered
5. It seems that respondent No. 4 (hereinafter referred as the plaintiff) has, a filed suit against the defendants before the learned trial court seeking permanent prohibitory injunction in the nature of interim injunction granted by the trial court vide the impugned order.
6. Case of the petitioner is that, the land through which the petitioner is claiming access to the suit property, has been

allotted to him for running parking spaces. It has been contended that even if it is assumed that the plaintiff has right to access through the land allotted to the petitioner herein, still then third parties or proxies of the plaintiff cannot be allowed to use the access through his allotted land.

7. Learned Senior Counsel appearing on behalf of the petitioner has contended that in the garb of interim order passed by the learned trial court, rights of the petitioner are being prejudiced and as such, the said order dated 31.10.2024 passed by the learned trial court deserves to be vacated. He has further contended that a direction is required to be issued to the respondents including the sub tenant of respondent No. 4 Shri Pooran Chand Sharma restraining them from using the access through the land allotted to the petitioner.
8. The grievance of the petitioner in short is that his rights are being prejudiced because of the ex parte interim order passed by the learned trial court. According to him, respondent No. 4/plaintiff and his proxies under the garb of aforesaid interim order are using access to their shop by trespassing over the

land allotted to him, without the petitioner being a party to the suit.

9. In the face of the aforesaid assertions of the petitioner and having regard to the facts and circumstances of the case, it appears that the petitioner is a necessary party to the suit which is pending before the learned trial court.
10. Accordingly, the petition is disposed of at this stage itself by directing impleadment of the petitioner as defendant to the suit pending before the learned trial court. It shall be open to the petitioner to file his written statement/objections to the interim application and raise all the pleas that are available to him under law before the learned trial court. Upon filing of the reply by the petitioner to the application for grant of interim injunction, the learned trial court shall decide the said application within a period of 30 days

11. Disposed of.

(Sanjay Dhar)
Judge

SRINAGAR
30.05.2025
Aasif