Serial No. 236

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

CR No. 38/2026
CM No. 5692/2026
CM No. 5693/2026

Shabnam Mirza & Ors. …..Appellant(s)/Petitioner(s)

Through: Mr. Farhan Mirza, Advocate.

vs

Suraiya Jabeen & Ors. ….. Respondent(s)

Through:

CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER
19.08.2026

01. After arguing the matter for some time, learned counsel for the petitioners submits that the objections, including the legal pleas raised in the application under Order VII Rule 11 of the Code of Civil Procedure, may appropriately be raised before the Trial Court in the written statement, whereupon the Trial Court may consider framing an appropriate preliminary issue and proceed with the suit in accordance with law.

02. The petitioners had approached the Trial Court by filing an application under Order VII Rule 11 CPC, inter alia, contending that the suit was not maintainable in view of the bar contained in Section 139 of the J&K Land Revenue Act and Section 25 of the Agrarian Reforms Act. The objections so raised are essentially legal in nature and their determination would depend upon the pleadings of the parties. It would, therefore, be for the Trial Court to consider, at the appropriate stage, whether any such issue

concerning the maintainability of the suit is required to be framed and tried as a preliminary issue. Having examined the order impugned in the aforesaid context, this Court finds no infirmity warranting interference in exercise of revisional jurisdiction.

03. Learned counsel for the petitioners fairly concedes that the Trial Court, while considering the application under Order VII Rule 11 CPC, has examined the plaint as it stands and that the legal objections sought to be urged by the petitioners can appropriately be considered by the Trial Court upon framing of the requisite issue.

04. In view of the aforesaid submission, the present revision petition is ***dismissed*** as not pressed, with liberty to the petitioners to raise, before the Trial Court, all permissible pleas concerning the maintainability of the suit, including those noticed hereinabove. In the event such pleas are raised, the Trial Court shall consider, in accordance with law, whether an appropriate preliminary issue is required to be framed and shall thereafter proceed with the suit expeditiously.

(Sanjay Parihar)
Judge

Jammu
19.08.2026
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