Sr. No. 9

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

Case No. RFA No. 67/2026 CM Nos. 7407-7408/2026 Cav No. 2537/2026.

Shakutala Devi through hr Special Power of Attorney Holder Shushil Kumar Sharma. ..petitioner(s)/appellant(s)

Through: Mr. Mohinder Singh Charak, Advocate.

Vs.

Abdul Hamid.

…respondent(s)

Through: Mr. Supreet Singh Johal, Advocate *(through virtual mode)*

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

ORDER
21.10.2026

(ORAL)

Cav No. 2537/2026

With the appearance of the counsel for the respondent/caveator, caveat stands discharged.

RFA No. 67/2026

01. This appeal has been filed by the appellant against order dated 11.07.2026 passed by the Additional District Judge Samba whereby plaint filed by the appellant has been rejected by the learned trial Court exercising its power under Order 7 Rule 11 of Code of Civil Procedure (CPC) on the ground that the said Court does not have territorial jurisdiction to entertain the suit as the subject matter of the suit falls outside the territorial limits of

the said Court and that the defendants reside outside the territorial jurisdiction of the said Court.

02. So far as the rejection of the complaint is concerned, the same is governed by the provisions contained in Rule 11 of Order 7 CPC. The grounds of rejection of the plaint are specified in the said Rules. As per the provisions contained in the Rule 11, a plaint cannot be rejected on the ground that subject matter of the suit falls beyond the territorial limits of the said Court. The appropriate course for dealing with such situation is provided under Rule 10 of Order 7 of CPC. As per this provision, the Court can, at any stage, of the suit return the same to be presented to the Court in which the suit should have been instituted. The Supreme Court has in the case of ***R.S.D.V. Finance Company Pvt. Ltd. Vs. Shree Vallabh Glass Works Limited (AIR 1993 SC 2094)*** held that when a suing court has no jurisdiction to try a suit, the only course to be adopted in such a situation is to return the plaint for its presentation to the proper Court.

03. In the present case if the trial Court was of the opinion that said Court lacks the territorial jurisdiction over the subject matter of the suit, the appropriate course open to it was to return the plaint to the plaintiff for its presentation before the Court having jurisdiction instead of rejecting the same. Hence, the order impugned in this appeal is not sustainable under law.

04. Learned counsel for the respondent has submitted that the Power of Attorney on the basis of which the plaintiff has filed the suit and the present appeal has been stayed by the Court, as such, the suit itself is incompetent. This aspect of the matter is left open to be dealt with by the

Court before whom the plaintiff may present her plaint after it is returned by the learned trial Court.

05. In view of the above, the instant appeal is allowed and the impugned order dated 11.07.2026 passed by the learned trial Court is set aside with a direction to the learned trial Court to return the plaint to the plaintiff for its presentation before the Court having jurisdiction.

06. Disposed of accordingly.

(SANJAY DHAR)
JUDGE

Jammu
21 .10.2026
Sunita