Sr. No. 102

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

RFA No. 66/2026

Shakuntala Devi ….Petitioner(s)/Appellant(s)

Through :- Mr. Mohinder Singh Charak, Advocate.

V/s

Abdul Hamid …. Respondent(s)

Through :- Mr. Supreet Singh Johal, Advocate
(*Through VC).*

Coram: HON'BLE MS JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

ORDER
(23.10.2026)

01. In this appeal, filed under Section 96 read with order XLI of the Code of Civil Procedure, 1908, appellant seeks to challenge the impugned judgment and order dated 11.07.2026, passed by learned Additional District Judge, Samba, in Civil Suit No. 166/2025/Civil Suit, titled "*Shakuntala Devi vs. Abdul Hamid*", whereby the learned Court has rejected the plaint of the appellant under Order VII Rule 11 of the Code of Civil Procedure for want of territorial jurisdiction.

02. Learned counsel for the appellant has invited the attention of this Court to the order dated 21.10.2026, passed by this Court in RFA No. 67/2026, in case titled "*Shakuntala Devi vs. Abdul Hamid*", whereby the order impugned therein has been 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. A copy of the said

order has been produced by the learned counsel and is taken on record.

03. Learned counsel submits that the controversy involved in the present appeal is squarely covered by the aforesaid decision of this Court. He further submits that even if the learned trial Court lacked territorial jurisdiction to entertain the suit, the appropriate course prescribed by law was to return the plaint under Order VII Rule 10 of the Code, rather than to reject the same under Order VII Rule 11 thereof.

04. Heard learned counsel for the parties and perused the order dated 21.10.2026 passed by this Court in RFA No. 67/2026.

05. Order VII Rule 10 of the Code provides for the return of a plaint for presentation before the Court in which the suit ought to have been instituted. The provision is intended to ensure that where a plaint has been presented before a Court lacking the requisite jurisdiction, the plaintiff may pursue the remedy before the competent forum in accordance with law. In contrast, Order VII Rule 11 prescribes the specific grounds on which a plaint may be rejected. Accordingly, a mere finding that the Court lacks territorial jurisdiction does not, by itself, warrant rejection of the plaint under Order VII Rule 11.

06. The legal position stands explained by the Hon'ble Supreme Court in R.S.D.V. Finance Co. Pvt. Ltd. *v. Shree Vallabh Glass Works Ltd.* (AIR 1993 SC 2094). In the said case, while considering the consequences of a finding that the Court lacked jurisdiction to entertain the suit, Apex Court has held that the Court was not justified in dismissing the suit itself and that the proper course

was to return the plaint for presentation before the Court of competent jurisdiction.

07. Applying the aforesaid principles to the facts of the present case, it emerges that the learned trial Court ought to have returned the plaint to the plaintiff for presentation before the Court having jurisdiction, rather than to reject the same under Order VII Rule 11 of the Code.

08. Accordingly, the appeal is **allowed**. The impugned judgment and order dated 11.07.2026, passed by the learned trial Court is hereby 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.

09. The appeal stands disposed of accordingly.

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
सत्यमेव जयते

(MOKSHA KHAJURIA KAZMI)
JUDGE

Jammu
23.10.2026
Sushant