Serial No. 41
Regular Cause List.

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

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CM(273/2026) IN CM(M) 349/2024
CM(490/2025) CM(5654/2024).

JOHN MOHAMMAD SHAH AND ORS.

…Petitioner (s)

Through: Mr. P.S. Ahmad, Advocate.

VERSUS

DEPUTY COMMISSIONER ANANTNAG AND ORS.

Through: Mr. Bhat Fayaz, Advocate with
Ms. Nighat Amin, Advocate.

…Respondent(s)

CORAM:
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.

ORDER

28-10-2026

01. The only order that is the subject matter of the present petition is the order dated 06.10.2022 passed by the court of learned Additional Special Mobile Magistrate, Bandipora, whereby the immovable property of the accused, namely Abdul Gani Shah S/o Habib ullah Shah, R/o Badura Anantnag, has been directed to be attached.

02. The claim projected by the petitioners in the present petition is that the said property never belonged to the accused but was, rather, owned by the petitioners.

03. The petitioner has also filed CM No. 273 of 2026, whereby the District Magistrate, Anantnag, was directed to proceed with the sale of the

property directed to be attached vide order dated 17th of November 2022, though the said order is not the subject matter of the present petition.

04. The contesting respondent No. 4 has filed a response stating therein that the petitioners had also instituted a Civil Suit before the Court of the learned Civil Judge (Senior Division), Anantnag, on 22nd of February 2025, and the learned Civil Court was pleased enough to pass an order of status quo vide order dated 18th of February 2025. Thereafter, the answering respondents filed an application under Section 151 of the CPC, seeking clarification of the aforesaid order of status quo. The learned Trial Court, vide its order dated 25th March 2025, clarified the order of status quo, maintaining that the suit property shall be preserved in the condition in which it existed on the date of filing of the suit. It was further clarified that the ex-parte interim order dated 18.02.2025, by no stretch of imagination, can be extended to criminal proceedings.

05. Learned counsel for respondent No. 4 has raised a preliminary objection with regard to the maintainability of the present petition and faced with the above situation, learned counsel for the petitioners has submitted that he may be permitted to avail the appropriate remedy as available under law. His statement is taken on record.

06. Accordingly, the present petition is dismissed as withdrawn with liberty to the petitioners to avail the appropriate remedy as available under law. The period consumed by the petitioners in pursuing the present petition shall not come in their way while availing the appropriate remedy as available under law.

07. At this stage, learned counsel for the petitioners has submitted that the parties may be directed to maintain status quo for a period of one week. Learned counsel for the respondents submits that he shall not press for execution of the order during the aforesaid period.

(Rajnesh Oswal)
Judge

SRINAGAR
28-10-2026
Showkat Khan

