Serial No.87
SUPP. CAUSE LIST

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM(7460/2026) IN
WP(C) 2648/2026
Caveat 2206/2026

NAZKEEN AHMAD DAR **…Petitioner/Appellant(s)**

Through: Mr. Salih Pirzada, and
Mr. Ubaid Mir, Advocates

Vs.

UT OF J&K AND ORS. **...Respondent(s)**

Through: Ms. Rahila Khan, AC vice
Mr. Bikramdeep Singh, Dy. AG
Mr. Ajaz A. Chesti, Advocate

CORAM:

HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER

31.10.2026

1. The instant application has been preferred by the applicant/petitioner seeking extension of the interim protection granted by this Court vide order dated 23.10.2026, whereby the eviction notice dated 15.10.2026 was directed to remain in abeyance, subject to further consideration by the learned Financial Commissioner, Revenue.

2. Learned counsel appearing on behalf of the applicant submits that the applicant has instituted a writ petition before this Court which was registered as WP(C) No. 2648/2026, being aggrieved of the action on the part of the learned Financial Commissioner, Revenue, in taking up and effectively considering the appeal preferred by the applicant/petitioner under Section 7 of the Jammu and Kashmir Migrant

Immovable Property Act, 1997, seeking setting aside/quashing of the eviction order dated 27.08.2026 passed by respondent No. 4. In addition, the applicant/petitioner has also called in question the eviction notice dated 15.10.2016 issued by respondent No. 3.

3. It is submitted that the matter came up for consideration before this Court on 23.10.2026, when, after hearing learned counsel for the applicant/petitioner as well as learned counsel appearing for the caveator, this Court passed a detailed order, the operative portion whereof reads as under:

> *"8.A bare perusal of the order dated 11.09.2026 passed by this Court intheearlier writ petition, being WP(C) No. 2239/2026, reveals that the petitionerwas granted liberty to avail of the statutory remedy of appeal withinaperiodof four weeks, with a direction to maintain status quo with respect tothesubject matter of the proceedings till then. It was further observedthat, uponthe filing of the appeal, it would be open to the appellate forumtopassappropriate orders in accordance with law, uninfluenced by the directionofstatus quo granted by this Court. The petitioner, in compliance withtheaforesaid order, filed the statutory appeal on 06.10.2026, withinthetimestipulated by this Court.*
>
> *9. In the aforesaid circumstances, the appeal having been instituted withintheperiod granted by this Court, it is for the competent appellate authoritytoconsider the pleas raised by the petitioner and pass appropriate ordersinaccordance with law.*
>
> *10.Having regard to the nature of the grievance projected and the fact that thepetitioner has already invoked the statutory appellate remedy, this Court isofthe considered*

view that the ends of justice would be met by directingthecompetent appellate authority to take up and decide the pending appeal, alongwith the interim application, expeditiously. 11.Accordingly, without expressing any opinion on the merits of the controversyor the maintainability of the present petition, the petitioner is relegatedtothecompetent appellate authority i.e., respondent No. 2 (Financial Commissioner, Revenue), for consideration and disposal of the statutory appeal filedon06.10.2026, along with the interim application, in accordance with law.

12.Respondent No. 2 shall consider and decide the interimapplication, preferablywithin a period of one week from today, after affording an opportunityofhearing to the petitioner, the caveator and any other stakeholder, if required, and without being influenced by any observation made in the present order. Till the interim application is considered and decided by the learnedFinancialCommissioner, Revenue, the eviction notice dated 15.10.2026 shall remaininabeyance and status quo with respect to the subject matter of the petitionshallbe maintained for a period of one week from today.

13.It is made clear that the aforesaid interim protection is confined totheperiodof one week only and shall be subject to the further orders, if any, passedbythe learned Financial Commissioner, Revenue, upon considerationof theinterim application, after hearing the concerned parties. The learnedFinancialCommissioner, Revenue, shall pass appropriate orders on the interimapplication, as also on the appeal, strictly in accordance with law.

14.Nothing observed hereinabove shall be construed as an expression of opinionon the merits of the controversy, which shall remain open for independentconsideration and adjudication by the learned Financial Commissioner,

Revenue, in accordance with law and in light of the pleadings andmaterialplaced before him.

15.The petition, along with the connected interim application, stands disposedofin the aforesaid terms…."

4. Learned counsel has further drawn the attention of this Court to the operative portion of the order dated 23.10.2026, whereby the learned Financial Commissioner, Revenue, was directed to consider and decide the interim application, preferably within a period of one week from the date of passing of the order, after affording an opportunity of hearing to the applicant/petitioner, the caveator and any other stakeholder, if required. It was further directed that, till such consideration and decision, the eviction notice dated 15.10.2026 shall remain in abeyance and status quo with respect to the subject matter of the petition shall be maintained for a period of one week.

5. Learned counsel submits that the interim protection so granted was limited to a period of one week and was intended to operate until the learned Financial Commissioner, Revenue, considered and decided the interim application. However, since no decision has been taken by the competent authority within the time stipulated by this Court, the interim protection has ceased to operate, thereby exposing the applicant to the imminent threat of eviction. It is, accordingly, prayed that the interim protection be extended until the interim application is considered and decided by the learned Financial Commissioner, Revenue.

6. Learned counsel, in support of his submissions, has also placed on record the proceedings conducted before the learned Financial Commissioner, Revenue, which according to him demonstrate that no effective consideration of the interim application has taken place despite the directions issued by this Court.

7. However, learned counsel appearing for the pvt. Respondent makes a categoric statement at the Bar that since there is no lis pending the instant application is not maintainable.

8. Heard learned counsel for the applicant and perused the material placed on record, including the proceedings of the learned Financial Commissioner, Revenue. The contemporaneous official record, prima facie, gives support to the submission advanced on behalf of the applicant that the interim application has not been considered and decided within the time stipulated by this Court vide order dated 23.10.2026.

9. Having regard to the peculiar facts and circumstances of the case, particularly the fact that the interim protection granted by this Court was limited to a period of one week and that the competent authority has not taken a decision on the interim application within the stipulated period, this Court is of the considered view that the applicant cannot be made to suffer on account of the delay attributable to the proceedings before the learned Financial Commissioner, Revenue.

10. Accordingly, in the peculiar circumstances noticed hereinabove, the interim protection granted vide order dated 23.10.2026 is extended and shall remain operative till the learned Financial Commissioner, Revenue, considers and decides the interim application preferred by the applicant, after affording an effective opportunity of hearing to all concerned stakeholders, including the applicant and the caveator, who has appeared in the main matter, if required.

11. Needless to observe that the learned Financial Commissioner, Revenue, shall independently consider and decide the interim application in accordance with law, without being influenced by any observation made by this Court either in the order dated 23.10.2026 or in the instant order.

12. It is clarified that the extension of interim protection is being granted in view of the exceptional circumstances projected before this Court and the failure of the competent authority to take a decision within the time stipulated. The same shall not be construed as an expression of opinion on the merits of the appeal or the interim application pending consideration before the learned Financial Commissioner, Revenue.

13. The instant application is, accordingly, disposed of.

(Wasim Sadiq Nargal)
Judge

SRINAGAR:
31.10.2026
"ARIF"