S. No.2
Regular list

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

CM(M) 488/2026 CM(7313/2026)

GHULAM HASSAN DAR …Petitioner(s)/Appellant(s)

Through: Mr. Bilal Ahmad Malla, Advocate.

Vs.

ABDUL AHAD DAR AND OTHERS ...Respondent(s)

Through:

CORAM:HON'BLE MR. JUSTICE RAHUL BHARTI JUDGE

ORDER
02.11.2026

1. The petitioner is a sole defendant in a civil suit preferred by the respondents. The institution of the civil suit by the respondents against the petitioner came to take place on **07.07.2015.**
2. In their civil suit, the respondents are seeking a decree of declaration with respect to their ownership and possession of suit land measuring 16 marlas under Survey No. 246 situated at Marheng, Shopian with a decree for permanent prohibitory injunction restraining the petitioner from causing any sort of interference with the suit land which is said to be bearing a shop measuring 15 × 28 in Survey No. 246.
3. The petitioner appeared in the suit and filed his written statement, which led to framing of Issues on 17.06.2016 whereby both the plaintiffs (respondents) as well as the defendant (petitioner) were called upon by the trial court of learned Civil Judge (Senior

Division) Shopian, to furnish their respective lists of witnesses along with deposit of diet expenses.

4. From the end of the petitioner, a list of seven (07) witnesses came to be submitted on **22.06.2016** which was within the 15 days' time-line for furnishing list of witnesses in a civil suit from the date of framing of issues.
5. It appears that while furnishing his said list of witnesses, the petitioner did not come forward with the deposit of diet expenses as ordered.
6. From the end of the respondents, witnesses came to be examined resulting in closure of their right to lead evidence in terms of an order dated 14.11.2022, thereby setting into effect right of the petitioner to lead his side of evidence, as defendant in the suit, in which regard the petitioner is said to have examined himself as well as one witness, namely, Nazir Ahmad Dar.
7. The petitioner seems to have indulged in a sort of hide and seek game in the matter of his appearance in the civil suit, and, in that process, made diligence a casualty from his end.
8. The petitioner got realization that for examining the Patwari Halqa concerned and also Naib Tehsildar and Tehsildar Keegam, as being his enlisted witnesses for which he had not deposited any diet expenses in time, the petitioner invoked section 151 of the J & K Code of Civil Procedure Samvat 1977 with an application filed on **01.06.2026,** before the trial court which came to be dealt with by

the trial court by a very well-reasoned order to which this Court registers its appreciation, but for one aspect which perhaps remained outside the perspective of the trial court which is that given the nature of the civil suit of the respondents being for declaration of ownership vis-à-vis the suit land which bears a khasra number, the appearance of a revenue side witness, if not produced from the end of the respondents but intended to be produced from the end of the petitioner, was meant to be meaningful to come up with correct discovery of facts.

9. At the end of day, adjudication of a civil suit pending on the docket of a civil court for last more than ten years is meant to come up with the truth, be it relatable to the claim of the respondents in favour or against them, and, consequently, be it in favour of the petitioner or against him.

10. In the course of a civil suit, a civil court passes order which advance the adjudication of a civil suit to its logical end. All such intervening/interlocutory orders, if not amenable to an appeal in terms of Section 104 of the Jammu and Kashmir Code of Civil Procedure Samvat 1977, are amenable to examination in the appellate side jurisdiction in terms of section 105 against final adjudication coming out of a given suit and, therefore, this Court is of the opinion that in the event of the adjudication of the civil suit coming against the petitioner then, if the petitioner exercising of his right of preferring an appeal under section 96 read with order

41 of the Jammu and Kashmir Code of Civil Procedure 1977 Samvat 1977, the petitioner's right to agitate the denial of opportunity to get the official witnesses examined in support of his claim shall suffer no prejudice. Hence this petition is not entertained and is **dismissed** in limine.

11. A copy of this order be forwarded to the Civil Judge, Senior Division, Shopian, for being taken on record.

(RAHUL BHARTI)
JUDGE

SRINAGAR
02.11.2026
Hilal Ahmad