Serial No.41
Supplementary Cause List

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

LPA 276/2026
In [WP(C) 2648/2026]

Omkar Nath Bhat
S/O: Late Dina Nath Bhat
R/O: H. NO. 52 Adarsh Enclave Sector-1 Trikota Nagar Jammu.
President, Shree Anandishwar Bhairav Nath Trust.

...Appellant(s)

Through:
Mr. Aijaz Ahmad Chesti, Advocate

V/s.

1. Union Territory of J&K Through Commissioner/Secretary to Government Revenue Department Civil Secretariat, Srinagar-190001.

2. Financial Commissioner Revenue, DC Office Complex, Tankipora, Sringar-190001.

3. Tehsildar South Srinagar Tankipora, Srinagar-190001.

4. District Magistrate Srinagar, DC Office Complex, Tankipora, Sringar-190001.

5. Senior Superintendent of Police, Srinagar District Police Headquarters-190009.

6. Nazkeen Ahmad Dar.
S/O: Late Ghulam Ahmad Dar
R/O: 56-Gogji Bagh Srinagar.

...RESPONDENT(S)

Through:

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CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE.

HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE.

ORDER (ORAL)

18.11.2026

Per Sanjeev Kumar-J:

01. Impugned in this Letters Patent Appeal, filed by the appellant under clause 12 of the Letters Patent, is an order and judgment dated 31.10.2026, passed by the learned Single Judge of this Court ["the writ Court"] in CM No. 7460/2026, filed in a disposed of writ petition bearing WP(C) No. 2648/2026, whereby the writ Court has extended the interim protection granted vide order dated 23.10.2026, while disposing of the main writ petition, till such time the Financial Commissioner, Revenue, considers and decides the application for interim relief preferred by the respondent No. 6 herein, after affording an effective opportunity of hearing to all the stakeholders.

02. Impugned order has been called in question by the appellant primarily on the ground that, with the disposal of WP(C) No. 2648/2026 in terms of order dated 23.10.2026, the writ Court had become *functus officio* and, therefore, could not have entertained an application seeking extension of interim protection in a disposed of matter. It is further contended that the application was decided without affording an adequate opportunity to

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learned counsel for the appellant, who had entered appearance on caveat, to file objections thereto.

03. Briefly stated, the facts leading to the filing of this appeal, as are gatherable from the pleadings and the judgment impugned are that the respondent No. 6-Nazkeen Ahmad Dar filed WP(C) No. 2239/2026 challenging the order dated 27.08.2026, passed by the District Magistrate, Srinagar. The writ Court disposed of the said writ petition vide order dated 11.09.2026, relegating the respondent No. 6 herein to the statutory remedy of appeal to be exercised within a period of four weeks, with a direction to maintain status quo with regard to the subject matter of the proceedings.

04. In compliance with the aforesaid directions, the respondent No. 6 herein preferred a statutory appeal before the Financial Commissioner, Revenue, on 06.10.2026, along with an application seeking interim relief. When neither the appeal nor the application for interim relief was taken up for consideration, respondent No. 6 herein once again approached this Court by filing WP(C) No. 2648/2026. The said writ petition came to be disposed of by the writ Court vide order dated 23.10.2026, with a direction to the Financial Commissioner, Revenue, to consider and decide the application for interim relief within a period of one week, after affording an opportunity of hearing to all the

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stake holders. It was further provided that, till consideration and disposal of the application for interim relief by the Financial Commissioner, Revenue, the eviction notice dated 15.10.2026 shall remain in abeyance and status quo with regard to the subject matter of the petition be maintained for a period of one week.

05. The Financial Commissioner, Revenue, who was seized of the appeal of the respondent No. 6 herein, could neither decide the appeal nor the application for interim relief within the period stipulated in the judgment impugned. This made the respondent No. 6 herein to approach the writ Court once again and this time by way of an application, CM No. 7460/2026, seeking extension of the interim protection granted while disposing of WP(C) No. 2648/2026, on the ground that in view of the failure of the Financial Commissioner, Revenue, to dispose of application for interim relief within a period of one week, respondent No. 6 herein was exposed to an imminent threat of eviction.

06. The appellant herein, who had entered appearance on caveat, opposed the application, though no opportunity was afforded to him to file objections thereto. After hearing both sides, the writ Court came to the conclusion that the *lis* needs to be protected till the Financial Commissioner, Revenue, who was seized of the appeal, considers the

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application of the respondent No. 6 for interim relief. It was in these circumstances, the writ Court disposed of the application by extending the interim protection granted while disposing of WP(C) No. 2648/2026, till the application for interim relief is considered and disposed of by the Financial Commissioner, Revenue. It is this order dated 31.10.2026 passed by the writ Court, which is subject matter of challenge in the instant appeal on the grounds which we have taken note of hereinabove.

07. Having heard learned counsel for the appellant and perused the material on record, we are of the considered opinion that the order impugned passed by the writ Court is perfectly legal and does not suffer from any error of law on fact and, therefore, deserves to be maintained.

08. True it is that, ordinarily once a writ petition is finally disposed of, the writ Court becomes *functus officio* qua the subject matter of the proceedings and the final judgment rendered in the case can only be reviewed in the exercise of review jurisdiction or corrected in terms of Section 152 CPC. Even the judgment rendered in violation of principles of natural justice can be recalled by exercising the extraordinary writ jurisdiction vested in the Court under Article 226 of the Constitution of India.

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09. It is true that, in terms of order impugned dated 31.10.2026, the writ Court has virtually modified the earlier directions and same could have been done in the exercise of extraordinary jurisdiction vested in the Court under Article 226 of the Constitution of India.

10. Viewed thus, we are of the view that though the application filed by the respondent No. 6 herein was not in tune with the writ proceeding rules framed by the Court, yet in the larger interest of justice the writ Court was well within its right to treat the same as a petition under Article 226 of the Constitution of India. That apart, nothing prevents the Court from exercising its extraordinary writ jurisdiction vested under Article 226 of the Constitution of India to undo the injustice caused to a party even by an order of this Court.

11. Insofar as the contention of learned counsel for the appellant that he was not given an opportunity of hearing is concerned, we do not see much substance in that. There were no fresh pleadings in the application which required rebuttal in writing. Learned counsel for the appellant was present and is shown to have argued the matter.

12. Be that as it may, the Financial Commissioner, Revenue by not adhering to the timeline fixed by the writ Court for disposing of the application for interim relief, rendered the interim

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protection granted to the respondent No. 6 herein by the writ Court ineffective, as a result whereof the Tehsildar South hurriedly issued eviction notice. If the *lis* is not protected and Financial Commissioner, Revenue, does not decide the application for interim relief on merits and the respondent No. 6 herein is evicted in the meanwhile, a serious injustice would be done to the respondent No. 6. In such situation, his appeal would virtually be rendered infructuous.

13. Keeping in view this aspect, the writ court has rightly extended the interim protection and we see no good reason or justification to take a view contrary to the one taken by the writ Court.

14. For the foregoing reasons, we find no merit in this appeal and the same is, accordingly, **dismissed**. We, however, direct the Financial Commissioner, Revenue, to dispose of the application for interim relief within a period of one month and the appeal within a period of three months, from the date a copy of this order is served upon him.

(MOHD YOUSUF WANI)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:
18.11.2026
"Mir Arif"

(i) Whether the order is reportable? Yes/No.
(ii) Whether the order is speaking? Yes/No.

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