

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR
(Through Virtual Mode)

CM(M) 6/2026 CM(36/2026)
Caveat 3125/2025

MOHAMMAD SHAFI MASI

...Petitioner(s)/Appellant(s)

Through: Mr. Malik Mushtaq, Advocate (Th. Virtual Mode)

Vs

BASHIR AHMAD WANI

...Respondent(s)

Through: Mr. M. Saleem Parray, and Gowhar H Wani Advocates for
the Caveator.

CORAM:
HON'BLE MR JUSTICE RAHUL BHARTI, JUDGE

ORDER
21.01.2026

1. The petitioner is aggrieved of rejection of a civil suit on File No. 167/N by virtue of an order dated 01.12.2025 passed by the court of learned Sub Judge, Shopian.
2. The dismissal of the petitioner's suit has taken place for the purported default on his part to lead evidence in the suit and for that purpose, mandate of Order 17 of the Code of Civil Procedure, 1908, came to be pressed into service by the trial court to order the dismissal of the petitioner's suit.
3. Order dated 01.12.2025 partakes the effect of a decree and as such, is amenable to a civil first appeal under Section 96 of the Code of Civil Procedure, 1908.

4. Instead of availing said appellate remedy, the petitioner is intending to seek supervisory discretion of this Court under article 227 of Constitution of India.
5. After arguing for a while, the learned counsel for the petitioner seeks the liberty of withdrawing the present petition so as to file a civil first appeal.
6. Dismissed as withdrawn with liberty granted to the petitioner to file civil first appeal within a period of ten days from the date of passing of this order upon which the delay would not be counted against the petitioner in filing the civil first appeal before the appellate court. Copy of this order to accompany civil first appeal if comes to be so filed by the petitioner.

(RAHUL BHARTI)
JUDGE

SRINAGAR
21.01.2026
AAMIR