

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

Through Virtual mode

CM(M) No. 15/2026

Ghulam Hassan Bhat

..... Petitioner(s)

Through: -
Mr. Shabir Ahmad Budoo, Advocate

V/s

Ghulam Hussain Khan and Ors.

..... Respondent(s)

Through: -

CORAM:

Hon'ble Mr Justice Rahul Bharti, Judge.

ORDER

22.01.2026

1. The respondents 1 to 4 are the plaintiffs in a civil suit, wherein they are seeking a decree of declaration, right of substitution cum prior purchase, partition and injunction.
2. The petitioner herein, figures as defendant No. 2 in said suit.
3. The suit was originally filed before the Court of 1st Additional Munsiff, Srinagar, in which the petitioner as defendant No. 2 appeared and filed his written statement. Later on, the Court of 1st Additional Munsiff, Srinagar, by virtue of an order dated 12.10.2015, returned the plaint to the plaintiffs by reckoning that the Court is lacking pecuniary jurisdiction to try suit and the suit ought to have been preferred before the Principal District Judge, Srinagar.

4. The plaint came to be returned and presented before the Principal District Judge, Srinagar, who then assigned the case to the Court of 1st Additional District Judge, Srinagar vide an order dated 02.11.2015.

5. Thus, the civil suit came to earn its trial in the Court of 1st Additional District Judge, Srinagar, in which the plaintiffs are said to have led their evidence.

6. It occurred to the petitioner, as defendant No. 2, that his written statement needs to be amended for which purpose he filed an application, which has come to suffer rejection by virtue of impugned order dated 25.11.2025.

7. The Court of 1st Additional District Judge, Srinagar, has found the petitioner lacking due diligence in coming up with the amendment application. The Trial Court has categorically referred that the evidence of the plaintiffs came to be closed on 20.11.2023.

8. The petitioner is aggrieved of the rejection of his application for amendment of the written statement and is, therefore, in the present petition, invoking supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

9. Learned counsel for the petitioner submits that the return of plaint made by the Court of 1st Additional Munsiff was illegal, as the entire suit file was transferred back to the Principal District Judge, Srinagar, and therefore, the proceedings are nullity. In this regard learned counsel for the petitioner refers to a judgment of the Hon'ble Supreme Court of India reported in (2014)

AIR (SC) 83. It may not lie in the mouth of the counsel for the petitioner to come up with this submission after having participated in the trial of the civil suit going on before the 1st Additional District Judge, Srinagar for the last ten years, therefore, this plea of the petitioner's counsel is rejected.

10. This Court finds no illegality vitiating the exercise of discretion by the Court of 1st Additional District Judge, Srinagar, otherwise also no prejudice is caused to the petitioner by rejection of his application for amendment of his written statement, as the facts which the petitioner intended to be placed on record are the ones which were all along known to him and surely must have been confronted to the plaintiffs in the examination as a witnesses.

11. In the event of the decision of the civil suit going against the petitioner, then the order dated 25.11.2025 passed by the Court of 1st Additional District Judge, Srinagar, in terms of its legality or illegality is open to the appellate Court jurisdiction by reference to Section 105 of the J&K Code of Civil Procedure Svt. 1977. Therefore, this Court finds no reason to interfere and hereby **dismisses** the petition.

(Rahul Bharti)
Judge

SRINAGAR:
22.01.2026

"Mohammad Yasin Dar"