

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

FAO/8/2026
CM/1651/2026

SHEIKH SHABIR AHMAD AND OTHERS

Appellant(s)...

Through: Mr. Syed Abid Parvaz, Advocate &
Mr. Syed Hamid Parvaz, Advocate.

Vs.

GHULAM MOHAMMAD DAR

...Respondent(s)

Through:

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI JUDGE

ORDER
03.04.2026

1. In a singular suit preferred by the respondent-**Ghulam Mohammad Dar** therein impleading 17 defendants out of which defendants 1 to 12 are the appellants herein, the respondent is seeking a decree of eviction and permanent injunction by reference to the suit shops stated to be existing at the site of the property allegedly purchased by the respondent on **9th December 2023**, whereupon a two-storied slab-roofed building consisting of 25 shops, two stairs and two floors with land measuring one kanal and five marlas existing and located at Estate Buchpora, Srinagar.
2. The respondent is said to have purchased said property in terms of a sale agreement dated **9th December 2023** from proforma defendants No. 16 and 17.

3. At the time of alleged sale agreement, the appellants herein were found to be already in possession of the suit shops.
4. The institution of civil suit is of **13th August 2025**.
5. The respondent came forward with an application seeking appropriate direction unto the appellants to pay purported occupational charges/mesne profits for respective use and occupation of said suit shops with effect from **9th December 2023** till the date of filing of application @ of Rs. 10,000/- per month.
6. The Court of Additional District Judge, Srinagar, by virtue of an order dated **2nd February 2026**, has come to pass a direction unto the appellants to deposit/pay occupational charges @ Rs. 3,000 per shop per month, which is meant for 17 shops with effect from 9th December 2023 till 31st January 2026.
7. The appellants have further been directed to continue to pay occupational charges at the prevalent market rate to be determined by a Commission issued under Order XX Rule 12 read with Section 151 of Code of Civil Procedure, (CPC).
8. The indulgence so shown by the court of learned Additional District Judge, Srinagar has left the appellants exposed to literally suffering a decree of eviction along with a money decree that too when the civil suit is at its very inception stage.

9. The appellants are, thus, assailing the exercise of jurisdiction on the part of the Additional District Judge, Srinagar.
10. Prima facie, even this Court is at a loss to figure out which jurisdiction has been exercised in terms of the Code of Civil Procedure, 1908 by the court below in the civil suit to come up with such like mini decretal directions when the respondent himself in his application has not even bothered to refer to section 151 of the CPC so as to mean as invoking inherent powers of a civil court which even if would have been so mentioned would not have enabled the trial court to proceed to such an extent.
11. Be that as it may, a case made out for indulgence.
12. Although the appellants are invoking Order 43 Rule 1(r) of the Code of Civil Procedure, 1908 against the impugned order by purported reference to the fact that the cause title of the impugned order bears reference to the temporary injunction application of the respondent, as such, not only Order 43 Rule 1 (r) of CPC is available to the appellants, but even supervisory jurisdiction of this Court under Article 227 of the Constitution of India is available and therefore, the petition is to have dual jurisdiction being exercised by this court for examining the legality and validity of the order passed by the court below.
13. Issue notice to the respondent.

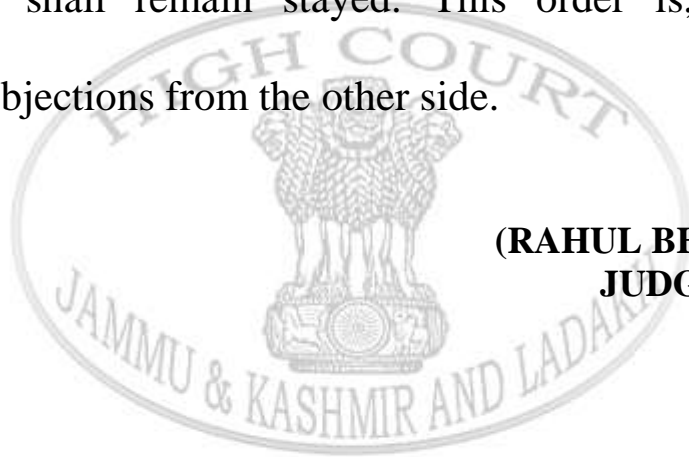
14. Appellants to furnish registered postal covers within a period of seven days whereupon notice to go to respondent.

15. Notice in **CM/1651/2026** also.

16. List on **8th May 2026**.

17. In the meanwhile, operation of the impugned order dated **02.02.2026** shall remain stayed. This order is, however, subject to objections from the other side.

SRINAGAR
03.04.2026
Hilal



(RAHUL BHARTI)
JUDGE