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Regular

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

FAO 8/2026 CM(1651/2026) CM(1959/2026)

SHEIKH SHABIR AHMAD AND OTHERS Petitioner(s)

Through: Mr. Aabid Parvaiz, Adv.

V/s

GHULAM MOHAMMAD DAR Respondent(s)

Through: Mr. M A Makhdoomi, Adv.

Coram:

Hon'ble Mr. Justice Sanjay Dhar, Judge

ORDER

08.05.2026

1. Learned counsel for the respondents seeks time to file objections to the application. Needful be done be filed by next date of hearing.
2. Vide impugned order passed by the learned trial court, the appellants were directed to deposit/pay occupation charges calculated at the rate of Rs. 3000/- per shop for a total of 17 shops w.e.f 09.12.2023. It has been further directed that the appellants shall continue to pay occupation charges at the prevalent market to be determined by a Commission issued in terms of Order XX Rule 12 read with Section 151 of CPC after holding an enquiry qua the prevalent market rate payable in the area concerned.
3. This court vide order dated 03.04.2026 has stayed the operation of the impugned order passed by the trial court.
4. Learned counsel for the respondents has submitted that the issue as to whether the respondents are entitled to receive the rent from the

appellants can be decided later on, but one thing is clear that the appellants happen to be the tenants in respect of suit shops, as such, they can enjoy the possession of the shops free of cost.

5. The appellants have not disputed the fact that they are tenants of the suit shops. It is also not in dispute that they are in occupation of the said shops. Therefore, allowing them to enjoy the possession of the suit shops without even having to pay occupation charges would not be equitable.
6. In view of the above, order dated 03.04.2026 is modified to the extent that the appellants shall deposit rent/occupation charges in respect of the suit shops @ Rs. 3000 per shop per month with the trial court in terms of direction passed by the said court. It is further provided that the learned trial court shall not release the deposited amount of rent without permission of this Court and the said amount shall be kept in an interest bearing account with the Bank.
7. So far as the determination of question as to at what rate the occupation charges have to be paid by the appellants and who is entitled to receive the same, would await the decision of the main appeal.
8. List on 15.07.2026.

(Sanjay Dhar)
Judge

SRINAGAR

08.05.2026

Aasif