

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

CM(M) No. 151/2026

Ghulam Rasool Wani

...Petitioner(s)

Through: *Ms Rubia Hassan, Adv.*

Vs.

UT of JK and Ors.

...Respondent(s)

Through:

CORAM:

HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE.

ORDER

06.05.2026

01. The petitioner through the medium of instant petition has sought setting aside the Order dated 18th February, 2026, passed by the court of Civil Judge (Senior Division), Bandipora ("trial court") in case titled "*Ghulam Rasool Wani Vs. Commissioner Secretary and Ors.*" by invoking the power vested under Article 227 of the Constitution of India.

02. Learned counsel for the petitioner has vehemently argued that the learned trial court has failed to appreciate the contents of the application preferred by the petitioner, wherein a request was made for seeking permission for allowing the petitioner to examine himself as his own witness and to the contrary a finding has been recorded that no such permission has been sought by the petitioner which is factually incorrect and, therefore, it reflects total misreading

of the said application. The learned counsel with a view to fortify his claim, has drawn the attention of this court to the application preferred by the petitioner, which has been placed on record of the instant petition, wherein permission was sought for allowing him to examine himself as a witness and the finding recorded by the learned trial court to the contrary that the petitioner herein/plaintiff therein has not sought any permission from the court at a later stage is, admittedly, incorrect and contrary to the record.

03. In addition, learned counsel for the petitioner has submitted that learned trial court has misconstrued the provisions of Order 18 Rule 3-A CPC by treating the same as mandatory, whereas the said provision, according to the learned counsel, is directory in nature and vests discretion in the court to permit examination of a party at a later stage upon sufficient cause being shown by recording reasons.

04. I am in agreement with the argument advanced by learned counsel for the petitioner and with a view to appreciate the controversy, it would be apt to reproduce Order 18 Rule 3-A of Civil Procedure Code as under:-

“Where a party himself wishes to appear as a witness, he shall so appear before any other witness on his behalf has been examined unless the Court, for reasons to be recorded, permits him to appear as his own witness at a later stage.”

05. From a bare perusal of the aforesaid provision, it is amply clear that where a party himself wishes to appear as a witness, he/she shall so appear before any other witness on

his/her behalf has been examined unless the Court, for reasons to be recorded, permits him to appear as his own witness at a later stage.

06. Thus, from a plain reading, it is apparently clear that a discretion is vested with the court below to permit the party to appear even at a later stage, but the reasons were required to be recorded in that eventuality. Admittedly, in the instant case, the petitioner has filed an application seeking permission for allowing him to examine himself as a witness at a later stage and once such application has been preferred, the trial court ought to have exercised the discretion by recording the reasons either to decline or to accept such application, which apparently is not forthcoming from the order impugned. Thus, in absence of any cogent reasons, the impugned order cannot sustain the test of law and liable to be set aside.

07. This Court, while invoking the supervisory jurisdiction under Article 227 of the Constitution of India, deems it proper to set aside the aforesaid order and consequently direction is issued to the learned trial court to decide the application preferred by the petitioner afresh strictly in terms of provisions of Order 18 Rule 3-A CPC by recording reasons.

08. In absence of any cogent reasons in conformity with the aforesaid order of the Civil Procedure Code, the Order dated 18th February, 2026 passed by the learned trial court is set aside. Accordingly, the matter is remanded back to the

learned trial court to decide the said application expeditiously so filed by the petitioner afresh strictly in consonance with the provisions of Order 18 Rule 3 CPC by recording reasons. The petitioner shall appear before the trial court on appointed date.

09. Registry to convey this order to the concerned court for immediate compliance.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:

06.05.2026

"Shamim Dar"