

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

CM(M)/154/2026 CM/2611/2026

**Azad Hussain Zargar (70 Years)
S/O Ghulam Mohammad Zargar
R/O Khrew, Pampore, Pulwama J&K**

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

Through: Mr. Asif Ahmad Bhat, Advocate

Vs.

**Mohammad Saleem Bhat
S/O Late Ghulam Nabi Bhat
R/O Alochi Bagh, Srinagar**

...Respondent(s)

Through: None

CORAM:

HON'BLE MR. JUSTICE M. A. CHOWDHARY, JUDGE.

ORDER
05.05.2026

1. Petitioner, through the medium of this petition, invoking supervisory jurisdiction, vested in this Court under Article 227 of the Constitution of India, seeks appropriate orders and direction in the matter, alleging that the petitioner has been detained in civil prison in compliance of the order dated 22nd of April, 2026, passed in Execution Petition titled '*Mohd. Saleem Bhat Vs. Azad Hussain Zargar*' pending on the files of the Additional District Court, Srinagar ['Trial Court'].
2. Learned counsel for the petitioner submits that the petitioner has been ordered to be detained, as he had failed to deposit the decretal amount of Rs. 8.00 lac granted vide *ex-parte* decree by the Trial Court. He further submits that the *ex-parte* decree is a nullity, in view of the lack of territorial jurisdiction, as such, the petitioner has moved an application under Section 47 of the CPC before the Executing Court which has been posted on 23rd of July, 2026, and the petitioner has been suffering, being in civil imprisonment.
3. Having regard to the pleadings and submissions made at the Bar, this Court is of the considered opinion that no purpose shall be served to keep this petition on board for any further adjudication. However, in the facts and circumstances of the case, the Executing Court is requested to consider the case of the petitioner in terms of the application moved and in case a request is made for preponing the case for hearing, the same be

considered sympathetically having regard to the lodgment of the petitioner in civil imprisonment and his advance age of 70 years.

4. Viewed thus, the present petition is disposed of with liberty to the petitioner to approach the executing court with an application for early hearing of the application moved by him in terms of the Section 47 of CPC, for consideration at an early date in this month only. In the event, the application for early hearing is moved and allowed, the application under Section 47 moved by the petitioner shall be disposed of within a period of seven days thereafter.
5. The present petition is thus, **disposed** of, on the above terms.

(M. A. CHOWDHARY)
JUDGE

SRINAGAR:
05.05.2026
Misba”

