

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM(2982/2026) in CM(M) 168/2026.

JAVID AHMAD AHANGER.

...Petitioner(s)

Through: Mr. Parvaiz Nazir, Advocate.

VERSUS

ZAFFAR AHMAD BHAT.

...Respondent(s)

Through:

CORAM:

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

ORDER

20.05.2026

CM No. 2982/2026:

01. For the reasons stated in the application coupled with the submissions made at the Bar, the same is allowed and the requirement of filing of certified copy of impugned order dated 16.03.2026 is dispensed with. Accordingly, the application- CM No. 2982/2026 stands **disposed** of. However, learned counsel for the petitioner is directed to place on record a certified copy of the same within a period of one week.

CM(M) 168/2026:

02. Learned counsel for the petitioner has drawn the attention of the Court to the observations of the learned Additional District Judge, Srinagar made in the impugned order dated 16.03.2026 with particular reference to Para 10 thereof, which are self-contradictory.
03. It is further submitted that the learned Trial Court, while considering the arguments advanced by learned counsel for the defendant (the

petitioner herein) observed that the defendant has raised a substantial defence which is likely to succeed *qua* the recovery of the amount, as sought under the affidavit sworn by the defendant certifying that he shall make the payment of Rs. 16.00 lacs if he fails to pay Rs. 8.00 lacs. The Court was further of the view that the issues raised by the defendant appear to be plausible, however, the Court on the other hand granted conditional leave to defend the suit under the provisions of Order 37 of the Code of Civil Procedure by holding that the defence raised by the defendant does not raise triable issues, but that conditional leave can be granted to the defendant to meet the allegations levelled by the plaintiff, which issue, according to the learned Trial Court can be taken up during the course of trial *qua* the legal sanctity of the affidavits sworn by the defendant, wherein he has undertaken to make the payment to the plaintiff quantified at Rs. 16.00 lacs.

04. According to the learned counsel for the petitioner, what weighed with the learned Trial Court while granting conditional leave was the admitted stand of the defendant (the petitioner herein), whereby he acknowledged having received an amount of Rs. 10.00 lakhs minus the amount which he claims to have repaid through bank transfers and this conduct of the defendant weighed with the learned Trial Court in granting conditional leave to defend the suit.
05. Thus, according to the learned counsel for the petitioner, the findings recorded by the learned Trial Court in the impugned order are self-contradictory and in derogation of the mandate and spirit of the law laid down by the Hon'ble Apex Court, which though has been referred to in the impugned order, has not been properly applied, and the

findings have been recorded contrary thereto, which cannot sustain the test of law. In the aforesaid backdrop, it is submitted that this is a fit case where the powers vested in this Court under Article 227 of the Constitution of India be invoked.

06. Heard learned counsel for the petitioner at length and perused the record.
07. Issue notice to the respondent.
08. Registry is directed to summon the scanned record of **File No. 3605/2025** in case titled **“Zaffar Ahmad Bhat Vs. Javaid Ahmad Ahanger”** from the Court of Additional District Judge, Srinagar.
09. In the meantime, subject to objections from the other side and till next date of hearing before the Bench, the operation of the impugned order dated 16.03.2026 shall remain stayed.
10. Alteration/vacation/modification on motion.
11. List on 3rd June, 2026.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR
20.05.2026
Bisma Jan.