

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

**CM (M) No. 194/2026
CM No. 3324/2026**

Mst. Saima

... Petitioner(s)

Through: -

Mr Rukhsana Khan, Advocate.

V/s

Khalid Ahmad Bakal & Ors.

... Respondent(s)

CORAM:

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

(ORDER)

03.06.2026

01. The Petitioner, invoking the supervisory jurisdiction of this Court vested under Article 227 of the Constitution, seeks setting aside of Order dated 10th of September, 2025 passed by the Court of learned Judicial Magistrate (Sub Judge), Srinagar, in an application filed under Section 21 of the Protection of Women from Domestic Violence Act, 2005, in case No. 205/2025 titled '**Mst. Saima v. Khalid Ahmad Bakal & Ors.**', whereby, it was ordered that the custody of the minor child, aged about 15 months, would remain with her mother, keeping in view her tender age and that the elder child, aged about 05 years, shall continue to be with the father, in view of the reasons stated in the Order, with further direction to him to handover the minor child, namely, Mahira Jan, to the custody of the mother (applicant) within two days and that this temporary custody was ordered with the aforesaid arrangement.

02. The impugned Order passed by the Court below has been assailed by the Petitioner herein, primarily, on the ground that the custody of both the children should have been provided to the Petitioner-mother,

inasmuch as, the age of the elder child was also just about 05 years. Since, both the children were with the father-Respondent No.1 herein, as such, the Court ordered that the younger child, aged 15 months, be handed over to the mother and the custody of the elder child, aged about 05 years, shall remain with the father-Respondent No.1 herein.

03. The Petitioner has challenged the impugned Order on many counts, however, in view of the alternate and efficacious remedy of filing of a statutory appeal under the Act of 2005 to a Sessions Court, the instant Petition filed before this Court is found to be misconceived and is liable to be rejected on the ground alone that the Petitioner has not availed the alternate and efficacious statutory remedy available to her.

04. Even otherwise, the custody ordered by the learned Magistrate is of interim and temporary nature and, as such, the parties can also work out their remedy before a District Court with regard to the custody of the children in terms of the Guardians and Wards Act, 1890. The learned Counsel for the Petitioner submits that such a Petition is, in fact, already pending before the competent Court. If that be so, the parties can make their endeavour to get the said Petition decided before the concerned Court in a summary way. This is another reason for this Court to hold that the present Petition is not maintainable. No other ground is made out for any intervention with respect to the impugned Order.

05. Viewed thus, the present Petition is found to be not maintainable before this Court. The same is, accordingly, **dismissed** in *limine*, along with connected CM.

(M. A. CHOWDHARY)
JUDGE

SRINAGAR
June 3rd, 2026
"TAHIR"