

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

CCP(D) No.21/2025 c/w
CCP(D) No.25/2023

Tahir Majid Baba ...Petitioner(s)/Appellants.

Through: Mr. Q. R. Shamas, Advocate.
Petitioner present in person.

Vs.

Hashmatullah Yatoo & Ors.Respondent(s)

Through: Mr. Hakim Aman Ali, Dy.AG, for respondents 1 to 4.
Mr. Mian Tufail, Advocate, for respondent no.5.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

ORDER
16.07.2025

01. In essence, the dispute is between the two real brothers. Vide judgment and order dated November 3, 2022 rendered by the Coordinate Bench in LPA No.197/2022 filed by Parvez Ahmad Baba, the observations recorded by the Writ Court in paragraphs 27 and 28 of the judgment, rendered in WP(C) No.1997/2021, were set-aside. And the parties were set at liberty to approach the concerned authority for issuance/ renewal of license. It was observed that upon being approached, the competent authority shall consider the individual claims in light of the relevant provisions of the law and pass appropriate orders within a month. Similarly, it was observed that the application which was pending before the Deputy Commissioner (Appeals) Sales Tax Department, Kashmir Division, Srinagar, would also be considered and decided after affording an opportunity of hearing to the petitioner-Parvez Ahmad Baba. Further, as may be relevant in the context of the issue that is sought to be raised, it was observed **“Till the time the license is granted in favour of the rightful**

party by the competent authority, the Samci Restaurant shall not be operated/ run by any of the party.”

02. The limited grievance of the petitioner is that post decision of the Coordinate Bench, as indicated above, the parties filed their respective applications for grant of license but the same were rejected by the Assistant Commissioner, Food Safety, Srinagar. However, the appeals preferred by the parties against the said order are stated to be pending consideration before the appellate authority. It is submitted that, despite the fact that private respondent did not possess any valid license and the Division Bench while passing the judgment and order dated November 3, 2022, had specifically observed that till the time the required license is granted in favour of the rightful party, none of the parties shall operate/ run Samci Restaurant, the private respondent in apparent violation and defiance of the said order still continue to run his business operations. And even though the petitioner had made numerous complaints in this regard to the authorities but to no avail.

03. On the contrary, learned counsel for the respondent authorities, with reference to the averments set out in paragraphs 5 and 6 of the affidavit dated 14.07.2025, submits for the private respondent was in possession of the restaurant, vide notice dated June 17, 2023 under Section 63 of the Food Safety and Standards Act, 2006, he was required to stop operations of the food establishment. So much so a complaint stands filed against him before the Chief Judicial Magistrate, Srinagar, under Section 26(2)(III) read with Section 31(1) and 63 of the Food Safety and Standards Act, 2006.

04. Yesterday, we had heard learned counsel for the parties at some length and since, as indicated earlier, the present *lis* is essentially between the brothers, to explore the possibility of resolving all the pending civil and criminal disputes between them, the following order was passed:

“After we had heard learned counsel for the parties at length, learned counsel appearing on behalf of respondent no.3 submitted that the parties to the lis being real brothers, there is every possibility of amicable resolution of every possible dispute that is pending between them.

A short accommodation is prayed for to seek instructions.

List tomorrow on 16th July, 2025.”

05. Today the learned counsel for the parties along with their respective clients are present in the Court. Having heard the petitioner and respondent no.3, we are sanguine that the two truly intend to provide a quietus to all the pending litigation/ disputes and resolve their differences for good. Accordingly, it is submitted that the matter be referred to Mediation and Conciliation Cell of this Court to draw up the final settlement. As regards the petition at hand, it is submitted that none of the parties as on today is running the restaurant in the demised premises and they undertake to comply with the judgment and order dated November 3, 2022 rendered by the Coordinate Bench in letter and spirit. Further they shall also submit their respective affidavits in this regard within three days from today.

06. That being so, we see no reason to continue with the present proceedings any further. Thus, in the wake of position sketched out above as also the statements made by the learned counsel for the parties and their respective clients, both the petitions are disposed of.

07. The parties shall appear before the Registrar Judicial today itself who in turn would refer them to the concerned mediator to carry out the rest of the proceedings.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Srinagar
16.07.2025
Abdul Qayoom, Secy.