

HIGH COURT OF JAMMU & KASHMIR LADAKH
AT SRINAGAR

CM(M) No.302/2026
CM No.4517/2026

MUSHTAQ AHMAD ZARKAB

...Petitioner

Through: Mr. Adil Asimi, Advocate

VERSUS

ABDUL HAMID MALLA

...Respondent

Through: None.

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, DGE.

ORDER
22.07.2026

1. The petitioner is coming forward invoking supervisory jurisdiction of this Court under article 227 of the Constitution of India being aggrieved of an adjudication made by the court of learned Additional District Judge, Srinagar in a civil suit on File **No. O/S 2921/2025** whereby the petitioner, as a defendant, has been put to direction as enlisted in para (6) of order dated **13.05.2026**.

"Accordingly, the defendant is directed as under:

- i. The occupational/rental charges of the suit shop from January 2022 upto October 2025 shall be calculated at the admitted rate of Rs.17,000/- (Rupees Seventeen Thousand only) per annum and total amount is qualified at Rs.63,744/-*

- ii. *With effect from November 2025, The defendant shall pay occupational user charges at the rate of Rs.5,000/- (Rupees Five Thousand only) per month till final disposal of the suit or till further orders of this Court.*
- iii. *Arrears accrued till date shall be deposited before this Court within a period of six weeks from the date of passing of this order for which the plaintiff is at liberty to seek execution in accordance with the relevant provisions of law.*
- iv. *The defendant shall continue to deposit future occupational charges regularly on or before the 10th day of each succeeding month during pendency of the suit.”*

2. The petitioner is aggrieved that the trial court of learned Additional District Judge, Srinagar is not vested with any such enabling power under the Code of Civil Procedure 1908.

3. The respondent, as a plaintiff, has asked for a decree of ejectment from a suit shop with decree for mesne profits for an amount of **Rs.12.00 lacs** and also for recurring mesne profits till the actual vacation of the petitioner from the suit shop comes to take place.

4. Learned counsel for the petitioner submits that the impugned order is literally a decree in advance handed over by the trial court in favour of the respondent.

5. The petitioner had actually come to assail said order by virtue of an appeal FAO **No.19/2026** which this Court held to be not maintainable as the order did not qualify to be an appealable order under section 104 read with order 43 of the Code of Civil Procedure, 1908 and, thus, the petitioner is now coming forward with the present petition under Article 227 of the Constitution of India.

6. Prima facie case made out.

7. Notice to the respondent.

8. Notice in CM **No.4517/2026** also.

9. The petitioner to furnish registered postal cover within a period of seven days whereupon notice to go to the respondent.

10. List again on **09.09.2026**.

11. In the meantime, operation of the impugned order shall remain stayed. This order is, however, subject to objections from the other side.

(RAHUL BHARTI)
JUDGE

SRINAGAR
22.07.2026
“Opinder”