

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

**RP 80/2023 in [CM(M) 254/2023]
CM(2509/2025) CM(6066/2025)
CM(7485/2023) CM(7486/2023) CM(7487/2023)
C/W (I) CCP(S) 596/2021
(II) RP 28/2022
(III) CM(M) 31/2022
(IV) CM(M) 331/2025**

ABDUL AZIZ MIR (SENIOR CITIZEN)

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

Through: Mr. J.H Reshi, Advocate with
Mr. Shah Murtaza, Advocate

Vs.

**JAVID AHMED KHAN AND ORS.
(REVENUE)**

...Respondent(s)

Through: Mr. Nisar Ahmad, Advocate

CORAM:

HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE.

ORDER

07.10.2025

RP 80/2023:

1. By this petition filed in terms of Order 47 Rule 1 Code of Civil Procedure, the review petitioner is praying that the order dated 04.10.2023 passed by this Court in case titled "*Javid Ahmed Khan Vs. Mushtaq Ahmed Khan & Ors.*" bearing CM(M) No. 254/2023, whereby, this Court while disposing of the said petition requested the Court of 1st Additional District Judge, Srinagar, to expeditiously dispose of the execution petition, which was stated to be pending before the said court, pursuant to the judgment and decree passed by it in the year 1997, be reviewed and recalled.

2. The review petition has precisely been filed by the applicant on the premise that he has interest in the suit property for which the judgment and decree dated 24.06.1997, had been passed by the Court of 1st Additional District Judge, Srinagar, in ex-parte, having purchased a portion thereof from the owners of the said property, and has been willfully not made a party to the said suit by

the petitioner of CM(M) 254/2023. Besides, the review petitioner is also taking a stand that in support of the petition that there was no execution petition pending before the 1st Additional District Judge, Srinagar, which was sought to be executed by the petitioner in CM(M) 254/2023, and by misleading the court has successfully obtained the order under review.

3. I have heard learned counsel for the parties and considered their submissions, and also perused the material made available.

4. The learned counsel for the review petitioner while making submissions has been consistently putting thrust on the factum of there being no execution petition pending before the Court of 1st Additional District Judge, Srinagar, therefore the order under review directing the said court to expeditiously dispose of the execution petition was unfounded.

5. It appears that the petitioner in CM(M) 254/2023 is the legal heir of Ms. Zainab Begum in whose favour an ex-parte judgment and decree in respect of the suit property has been passed by the Court of 1st Additional District Judge, Srinagar. The said petitioner had preferred a petition in terms of Article 227 of Constitution of India to question the proceedings initiated by the sub-ordinate Civil and Revenue Courts in respect of the suit property and the private respondents in the said petition were also the legal heirs of the said decree holder. The learned counsel had restricted the prayer in the said petition to the extent of directing the Court of 1st Additional District Judge, Srinagar, to expeditiously dispose of the execution petition pending before him.

6. This Court in view of the innocuous prayer, agreed to the disposal of the petition on the said lines and accordingly requested the learned 1st Additional District Judge, Srinagar, to expeditiously dispose of the execution petition stated to be pending before him. In any case, even if the submissions of the learned

counsel are taken to be wholly correct, yet the interests of the review petitioner do not appear to have been prejudiced in any way by the order under review.

7. The review petitioner is an objector before the executing court, is pursuing the execution proceedings. The executing court has passed certain orders pursuant to the order under review, some of which have also been challenged by the review petitioner before this Court, therefore, the review petitioner cannot claim that no execution petition was pending before the executing court when the order under review was passed.

8. In this view of the matter, the order sought to be reviewed by the review petitioner namely Ab. Aziz Mir do not appear to have any error attached with it that would warrant reviewing/revisitation of the same. Moreso, the order under review does not fall within the contours of Order 47 Rule 1 Code of Civil Procedure, as there is no apparent error on the face of record that would call for reviewing/revisiting of the order.

9. For all what has been said hereinbefore, the review petition being without merit is dismissed. There shall, however, be no order as to costs.

RP 28/2022:

10. List before the appropriate bench.

CM(M) 331/2025:

11. Mr. Nisar Ahmad, learned counsel for the respondents seeks and is granted two weeks time for filing reply.

12. List on 21.11.2025, along with connected matters.

(MOKSHA KHAJURIA KAZMI)
JUDGE

SRINAGAR:

07.10.2025

“Adil Ismail”