

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

CM(M) No. 16/2021

**M/s Kohli Transport Carriers Pvt.
Ltd. Jammu Th. Its Director S.
Adeep Singh Kohli**Appellant(s)/Petitioner(s)

Through: Mr. K. S. Johal, Sr. Advocate with
Mr. Karman Singh Johal, Advocate
Mr. Shafqat Nazir, Advocate.

vs

Kamlesh Kumar Dubey Respondent(s)

Through: Mr. Sunil Sethi, Sr. Advocate with
Mr. Mohsin Bhat, Advocate
Mr. Parimoksh Seth, Advocate
Mr. R. K. Jain, Sr. Advocate with
Mr. Pranav Jain, Advocate.

Coram: HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE

ORDER
04.06.2026

1. Heard learned counsel for the parties in respect of the matter at length.
2. The petitioner/judgment debtor has assailed the order dated 29.07.2021 passed by the learned trial/executing court of learned 1st Additional District Judge, Jammu on the main grounds that the impugned order has been passed regarding execution of an exparte judgment and decree dated 14.07.2015. That the petitioner/judgment debtor filed an application for setting aside the same before the learned trial court with an application for grant of interim relief regarding stay of the execution proceedings. That the learned trial court granted interim stay order, however, subsequently proceeded to pass the impugned order dated 29.07.2021 regarding execution of the ex parte

decree, which is bad under law, perverse and in violation of the law of natural justice.

3. Per contra, the case of the respondent is that after passing of the judgment and decree dated 14.07.2015 by the learned trial court, an application was filed before the trial court for execution of the same. That the petitioner/judgment debtor came to file an application for setting aside the ex parte decree supported with an application for condonation of delay. That subsequently, the application for grant of stay filed by the petitioner/judgment debtor came to be dismissed by the learned trial court with the vacation of the interim stay order. That the order dated 29.07.2021 for execution of the judgment and decree came to be passed after vacation of the interim stay order. That the judgment and decree came to be fully implemented on spot, which is evident from the report of the SDPO City, Jammu.
4. Learned counsel for both the parties, in reiteration of their respective stands afore-referred, argued the matter extensively.
5. Learned counsel for the respondent submitted that the instant petition is not maintainable because the petitioner had already filed an application before the learned trial court seeking the same relief as sought in the instant petition, i.e. stay of order dated 29.07.2021 passed by the executing court.
6. Perusal of the record of the trial/executing court is felt imperative before disposal of this petition.
7. **The matter is reserved for passing of appropriate orders. Meanwhile, Registry shall send for the scanned copy of the record**

from the learned trial /executing court of 1st Additional District Judge, Jammu.

8. Learned counsel for the parties are at liberty to furnish written synopsis and case law.

**(MOHD YOUSUF WANI)
JUDGE**

Jammu
04.06.2026
Sahil Padha

