

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

Case: CM No. 6088/2025 IN
CM(M) No. 262/2025

Rattan Lal

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

Through :- Mr. K.D.S Kotwal, Advocate

Vs

Sunita Gupta and Ors.

.....Respondent(s)

Through :- Mr. Ayushman Kotwal, Advocate

CORAM:

HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER
24.09.2025

01. Record reveals that this Court vide order dated 19.09.2025 has been pleased to observe as under:-

“In the meantime, subject to objections from the other side and till next date of hearing before the Bench, status quo as it exists today shall be maintained on spot. In addition, Registry has been directed to convey the said order forthwith to Tehsildar Bahu for strict implementation.”

02. Today, learned counsel for the respondents has filed an application, which has been registered as CM No. 6088/2025 by virtue of which, he has sought clarification of the aforesaid ex-parte ad-interim direction passed by this Court mentioned (*supra*) to the effect that the direction is meant only to maintain status-quo of the physical position on spot on the date of passing of the order and not to stop the business (Food Joint) already run from the suit property.

03. Learned counsel for the respondents further submits that in an application filed before the trial Court on 01.09.2025, the petitioner/plaintiff has

sought implementation of order dated 12.04.2025 alleging therein that the applicants have inducted a third party in the property and the work is being carried out on the date of filing of the said application.

04. Through the medium of the instant application, it has been submitted that the food joint is running at the suit property has been admitted and is borne out from the photographs annexed to the application filed before the learned trial Court by the petitioner/plaintiff.

05. It has been averred in the instant application that the admitted factual position, thus, arising as on date is that the death of the father of the respondents occurred on 26.06.2025 and the respondents herein have inducted a tenant in the shop in the said suit property, who at presently is running a food joint prior to the filing of the application by the petitioner before the learned trial Court on 01.09.2025.

06. The question whether the induction of the tenant by the respondent herein in the suit property after the death of their father and prior to their substitution as defendants in the suit, amounts to violation of ad-interim direction passed by learned trial Court dated 12.04.2025 is a question raised by petitioner/plaintiff therein in his application filed before the learned trial Court on 01.09.2025, which according to learned counsel for the respondents, has been listed for hearing/arguments i.e. on 24.09.2025.

07. It has been projected by learned counsel for the respondents that the petitioner, without waiting for disposal of the said application preferred before the learned trial Court, has approached this Court through the medium of the

instant petition and this Court vide order dated 19.09.2025 has been pleased to grant ex-parte interim direction to the effect that the “status-quo as it exists today shall be maintained.”

08. According to the learned counsel for the respondents, the petitioner by invoking the supervisory jurisdiction of this Court under Article 227 of the Constitution has not approached this Court with clean hands inasmuch as, he has omitted to disclose that the application preferred by him for implementation of the order for ad-interim injunction has been listed for arguments by learned trial Court on 24.09.2025 and in fact by filing the instant petition, it tantamounts to initiate parallel proceedings before this Court under the garb of petition preferred under Article 227 of the Constitution.

09. Lastly, it has been argued by learned counsel for the respondents that the obstruction being caused by the petitioner by getting the interim direction will cause huge loss to the respondents, as business would get hampered in the ongoing festival season.

10. Heard learned counsel for the parties at length and perused the record.

11. Since, it has been brought to the notice of the Court by both the rival counsels that the application has been listed for final arguments before the learned trial Court today so it would be apt to relegate both the parties to cause their appearance before the learned trial Court to argue the matter on the said application on merits, so that the issue which is pending adjudication in the said application is decided forthwith.

12. It is further made clear that while deciding the said application, the learned trial Court shall not be influenced by any observation made by this Court while hearing or deciding this petition. However, the application shall be decided strictly in accordance with law and as per record after hearing both the parties.

13. In the aforesaid backdrop, no fruitful purpose will be served to keep this petition alive and, accordingly, the same is disposed of by directing the learned trial Court to hear and decide the said application preferred by the respondents herein expeditiously preferably within a period of two weeks from today and that too after providing an opportunity of being heard to both the sides. In case for any practical reason, the said application is not heard or decided today, the shortest possible date shall be fixed so that the said application is decided at the earliest, as the time is the essence as has been projected in the instant application.

14. While deciding the said application, the trial Court shall proceed strictly in accordance with law and decide the said application without being influenced by any observation made while deciding the instant petition.

15. The writ petition is, accordingly, ***disposed of*** along with connected application(s) in the manner indicated above.

16. Registry is directed to forward copy of this order forthwith to the trial Court. However, in addition, copy of this order be provided to learned counsel for the parties under the seal and signature of Bench Secretary.

17. Till the said application is decided, order dated 19.09.2025 in the instant petition shall continue to be operative and the continuance of the same shall govern the outcome of the said application, which has to be decided by learned trial Court after hearing both the parties in accordance with law and as per record.

(WASIM SADIQ NARGAL)
JUDGE

JAMMU
24.09.2025
Mihul

