

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

CM(M) 124/2026

CM(2098/2026)

Caveat 634/2026

1. Ghulam Mohammad Shekh aged 59 ...Petitioner(s)/Appellant(s).
2. Abdul Kareem Sheikh aged 59 years
3. Abdul Ahad Sheikh aged 57 years
sons of Mohammad Hayat Sheikh
residents of Harnoo Tehsil and
District Budgam

Through: Mr. Touseef Ahmad Khan, Advocate

Vs.

1. Gulzar Ahmad Sheikh ...Respondent(s).
2. Mohammad Subhan Sheikh sons of
Abdul Rehman Sheikh
3. Karim Sheikh son of Ahmad Sheikh
4. Bashir Ahmad Sheikh
5. Mohammad Maqbool Sheik
6. Gulshan respondents 3 to 6 are sons
and daughter of Sonallah Sheikh
All residents of Harinoo Budgam,
Kashmir

Through: Mr. G.A. Lone, Advocate with
Ms. Fiza, Advocate for caveators

CORAM: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER

21.04.2026

1. The petitioners, by way of the present writ petition filed under Article 227 of the Constitution of India, have challenged order dated 24.03.2026 passed by the Court of Sub-Judge/Special Mobile Magistrate, Budgam, whereby the Tehsildar, Budgam has been directed to implement order dated 04.06.2025, besides seeking other reliefs.
2. During the course of hearing, Mr. G.A. Lone, learned counsel, along with Ms. Fiza, appearing for the caveators/respondents, brought to the notice of this Court that the petitioners had already filed an application before the

same Court, i.e., the Court of Sub-Judge/Special Mobile Magistrate, Budgam, seeking that the impugned order dated 24.03.2026 be kept in abeyance. It was further submitted that the said Court, vide order dated 06.04.2026, after hearing both parties, directed that the impugned order dated 24.03.2026 shall not be executed by the Tehsildar, Budgam till further orders. It was also directed that the non-applicant/respondents herein shall not proceed with its execution till next date of hearing. A copy of the said order dated 06.04.2026 has been furnished to this court which has been taken on record.

3. Mr. G.A. Lone, learned counsel, further argued that the petitioners had earlier filed a writ petition under Article 227 of the Constitution of India challenging the clarification of an earlier order dated 17.11.2025 passed by the Coordinate Bench of this Court in CM(M) 481/2025 titled as Gh. Mohammad Shiekh v/s Gulzar Ahmad Shiekh and ors., which petition has already been dismissed by a Coordinate Bench of this Court. It is contended that this material fact has been deliberately suppressed by the petitioners with a view to mislead this Court and get an interim relief.
4. Heard learned counsel for the parties and perused the material available on record.
5. I am in agreement with the arguments advanced by Mr. G.A. Lone, learned counsel for the caveators, that the instant petition is an attempt to mislead this Court and falls within the realm of abuse of the process of the Court, as the petitioners have already availed the remedy by filing an application before the Court of Sub-Judge/Special Mobile Magistrate, Budgam, which court has taken cognizance and passed a detailed order dated 06.04.2026. By virtue of the said order, it has been specifically directed that the impugned

order dated 24.03.2026 shall not be executed by the Tehsildar, Budgam, until further orders, and the non-applicant respondents herein have been restrained from proceeding with its execution until the next date of hearing.

6. It is not in dispute that the petitioners had already approached the Court of Sub-Judge/Special Mobile Magistrate, Budgam by filing an application seeking suspension of the said order dated 24.03.2026. The Learned trial Court, upon hearing both sides, has already passed an order dated 06.04.2026, whereby, the operation and execution of the impugned order has already been stayed. Thus, the grievance projected in the present petition already stands redressed by the competent court.
7. In view of the aforesaid position, this court of considered view that once, the execution of the impugned order already stood stayed by the Court concerned, there was no occasion for the petitioners to invoke the supervisory jurisdiction of this Court under Article 227 of the Constitution of India seeking quashment of the same order. The filing of the present petition, therefore, appears to be wholly unnecessary and misconceived.
8. Further, it is evident that the petitioners have suppressed material facts, including the passing of aforesaid order dated 06.04.2026 as well as the earlier writ petition mentioned *supra* filed before this Court, which has a direct bearing on the present matter. Such suppression amounts to an attempt to mislead this Court.
9. The Hon'ble Supreme Court in case titled *The Auroville Foundation Vs Natasha Storey* reported as 2025 SCC Online SC 556, has authoritatively held that:

“9. It is no more res integra that the Doctrine of “Clean hands and non-suppression of material facts” is applicable with full force to every proceedings before any judicial forum. The party invoking extraordinary

jurisdiction of the High Court under Article 226 of the Constitution of India must come with clean hands and disclose all correct and material facts in his Writ Petition. If it is brought to the notice of the Court that the petition has been guilty of suppression of material and relevant facts or has not come with clean hands, such conduct must be seriously viewed by the courts as the abuse of process of law and the petition must be dismissed on that ground alone without entering into the merits of the matter.”

10. Further this court in WP(C) 3035/2025 titled Farooq Ahmad Shiekh vs Financial Commissioner (Revenue) decided on 10.12.2025, has held as under:

“20. This Court cannot overlook the deliberate and willful suppression of material facts by the petitioners. The petitioners, having suffered dismissal before both the appellate and revisional authorities, approached this Court without disclosing the pendency of a civil suit on the same subject matter, nor did they bring to the notice of this Court the passing of the interim order dated 12.07.2024 by the Learned Civil Judge/Munsiff Sogam restraining the petitioner from interfering with or encroaching upon the pathway. The fact that the Civil Court's order was already in existence and known to the parties, and had also been referred to in the orders of both the appellate and revisional forums, shows the concealment was deliberate and wilful.

27. Accordingly, with a view to deprecate such practice of suppression of material facts, this Court imposes a cost of Rs.50,000/- on the petitioners, to be paid jointly by them, within a period of two weeks from the date of pronouncement of this order, which is to be deposited in the Advocates' Welfare Fund of this Court.”

11. Again, this Court in case titled as Satpal Sharma vs. State of J&K and others reported as 2024 SCC OnLine J&K 775, has held that:

"64. Thus, from the aforementioned enunciations of law, it has been settled that suppression of any material fact amounts to abuse of the process of law and playing fraud, which would deprive an unscrupulous litigant from availing equitable or discretionary remedies under Article 226 of the Constitution of India. In the instant case, the petitioners, with a view to mislead this Court, have deliberately suppressed the fact that the demolition over the land of the petitioners was already carried out by the JDA before filing the instant case, which fact has been admitted by the petitioners in three separate c/w applications filed under Section 156(3) of Cr.P.C and also in the petition filed under Section 561-A of J&K Cr.P.C. by the petitioners. In these circumstances, the petitioners are not entitled to claim the discretionary remedy/relief available under Article 226 of the Constitution of India.

65. The petitioners have deliberately suppressed the fact that the demolition on their land had already been conducted on 30.09.2018 and the same was

in their active knowledge, yet the petitioners with a view to mislead this Court twisted the facts and projected a contradictory stand in the instant petition which lead to the passing of status quo order in HIGH COURT OF JAMMU & KASHMIR AND LADAKH their favour. Thus, it is clear that the petitioners have abused the process of law and concealed material facts and accordingly, this Court is of the view that this is a fit case, where cost is required to be imposed on the petitioners for their conduct.

66. Accordingly, with a view to deprecate such practice of suppression of material facts, this Court imposes a cost of Rs. 50,000/- on the petitioners, to be paid jointly by them, within a period of two weeks from the date of pronouncement of this order, which is to be deposited in the Advocates' Welfare Fund of this Court. It is made clear that in case the costs imposed by this Court is not deposited within the aforesaid period, the Registry will list this petition after two weeks, only for this limited purpose for compliance”

12. Upon the careful consideration of the present petition, this Court is of the considered opinion that the conduct of the petitioners is wholly untenable in law. The omission to disclose the order dated 06.04.2026, which has a direct nexus with the relief claimed, along with the concealment of the earlier writ proceedings, clearly demonstrates a deliberate attempt to suppress material facts. The petitioners, by concealing relevant facts and indulging in parallel proceedings, have not only attempted to mislead this Court but have also abused the process of law.

13. It is well settled that a litigant invoking the extraordinary jurisdiction of this Court must come with clean hands, clean mind and complete candour, and is under a bounden obligation to disclose all material facts which have a bearing on the adjudication of the lis. Suppression or concealment of material facts is not a mere irregularity, but amounts to playing fraud upon the Court. The duty to disclose is absolute, and extends not only to facts which support the case of the party, but equally to those which are adverse to it. Any attempt to mislead the court strikes at the very root of the administration of justice and undermines the confidence reposed in judicial proceedings

14. In the present case, the petitioners have deliberately suppressed the order dated 06.04.2026, which had a direct and substantial bearing on the relief sought, and have also concealed the earlier writ proceedings before this Court. Such suppression cannot be countenanced as inadvertent or immaterial, but is clearly willful and calculated attempt, intended to secure an interim relief by misleading the Court. By indulging in such conduct, the petitioners have not only abused the process of law but have also attempted to overreach the judicial process.

15. A litigant who attempts to pollute the stream of justice or approaches the Court with tainted hands is not entitled to any relief, interim or final, such conduct being wholly incompatible with the equitable jurisdiction exercised by this Court. The writ jurisdiction cannot be permitted to be invoked as an instrument of abuse or to perpetuate unfair advantage. In such circumstances, this Court is not only justified in declining relief but is duty-bound to dismiss such proceedings with exemplary costs, so as to deprecate such practice and to preserve the judicial sanctity.

16. In the aforesaid circumstances, this Court is of the considered view that the present petition is an abuse of the process of law and writ petition as such is utterly misconceived and devoid of any merit. The same is, accordingly, liable to be dismissed with exemplary costs.

17. Accordingly, the present petition is **dismissed** with costs quantified at Rs. 50,000/- (Rupees Fifty Thousand only), to be deposited by the petitioners with the Registry of this Court within a period of two weeks from today, so as to deprecate such practice and to preserve the judicial sanctity, ensuring that the process of the Court is not undermined by suppression of material facts.

