

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

CM (M) No. 548/2025 CM No. 8254/2025 CM No. 8826/2025

1. BASHIR AHMAD AKHOON
S/O KHAZIR MOHAMMAD AKHOON
R/O MUQAM ANDERHAMA TEHSIL DRUGMULLA DISTRICT KUPWARA.
2. WALI MOHAMMAD AKHOON
S/O AB. JABBAR AKHOON
R/O GUSHI KUPWARA.

.....Petitioner(s)

Through:
Mr. Sheikh Manzoor, Adv.

Versus

1. GHULAM AHMAD MALIK.
S/O AB. KAREEM MALIK
BOHIPORA KUPWARA

.....Respondent(s)

Through:
*Mr. Syed Faisal Qadiri, Sr. Adv. with
Mr. Numan, Advocate
Ms. Saba, Advocate*

CM(M) No. 289/2025 CM No. 4520/2020

1. GH. AHMAD MALIK
S/O ABDUL KARIM MALIK
R/O BOHIPORA TEHSIL AND DISTRICT KUPWARA

.....Petitioner(s)

Through:
*Mr. Syed Faisal Qadiri, Sr. Adv. With
Mr. Numan, Adv.*

Versus

1. BASHIR AHMAD AKHOON
S/O KHAZIR MOHAMMAD AKHOON
R/O MUQAM ANDERHAMA DRUGMULLA KUPWARA.
2. WALI MOHAMMAD AKHOON
S/O ABDUL JABBAR AKHOON
R/O GUSHI TEHSIL AND DISTRICT KUPWARA
3. MST. RAJI BEGUM
D/O KHAZIR MOHAMMAD AKHOON
W/O MAHD MUGHAL
R/O PAYERPORA HYHAM KUPWARA
4. MST. ZAREEFA BEGUM
D/O KHAZIR MOHAMMAD AKHOON
W/O GH. HASSAN KHAN
R/O GUNDIMACHAR LOLAB KUPWARA.

.....Respondent(s)

Through:
Ms. Suwaiba, Advocate.

CORAM:

HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

JUDGMENT (ORAL)

21.05.2026

CM(M) No. 548/2025

BRIEF FACTS.

1. The petitioner, through the medium of the instant petition preferred under Article 227 of the Constitution of India, seeks quashment/setting aside of order dated 29.11.2025 passed by the Court of learned Munsiff, Civil Judge (Junior Division), Kupwara, in an application filed under Section 151 of the Code of Civil Procedure titled "*Ghulam Mohammad Malik vs. Bashir Ahmad Akhoun and Another*" in File No. 4/2025, whereby the learned trial court has appointed the Tehsildar concerned and the District Agriculture Officer, Kupwara, as Commissioners to visit the spot and submit a report regarding the subject matter of the suit.
2. Before advertng to the controversy involved in the instant matter, it would be apt to briefly notice the factual background of the case.
3. The respondents preferred a civil original suit seeking the relief of permanent prohibitory injunction against the petitioners before the Court of learned Munsiff, Civil Judge (Junior Division), Kupwara, and the learned trial court, vide order dated 22.06.2020, was pleased to pass an ex parte interim injunction. For facility of reference, the same is reproduced as under:

“Issue notice to the other side for filing of objections and in the meanwhile defendants/non-applicants are restrained temporarily from interfering with the ownership, possession, enjoyment and revenue record of the suit land measuring three Kanal and 17 Marlas bearing Khasra No. 1710 (measuring 5 marla's), Khasra No. 1712 (measuring 18 marla's) and Khasra No. 1713 (measuring 2 kanal and 14 marla's) as attested by mutation bearing No. 422 vide dated 02.11.1995 in the revenue record situated at Gushi Kupwara till next date of hearing as fixed in the matter on 11-07-2020.

This order shall remain subject to the objections from the other side defendant/non-applicant who are at liberty to approach this court even before the next date of hearing for vacation, modification, cancellation or clarification of order.”

4. The petitioners thereafter filed their written statement and objections against the interim order. However, the learned trial court, vide order dated 16.04.2025, made the interim order dated 22.06.2020 absolute till final disposal of the suit.
5. Aggrieved of the order dated 16.04.2025 passed by the Court of learned Munsiff, Civil Judge (Junior Division), Kupwara, the petitioners preferred a Civil Miscellaneous Appeal in terms of Order 43 Rule 1 of Civil Procedure Code before the Court of learned Principal District Judge, Kupwara. The learned appellate court, after hearing learned counsel for both the parties and perusing the record of the learned trial court, passed an order dated 03.07.2025 whereby the order of the learned trial court dated 16.04.2025 was modified and the parties to the suit were directed to maintain status quo with regard to possession of the suit property.
6. The record further reveals that while deciding the aforesaid Civil Miscellaneous Appeal, the learned appellate court directed the learned trial court to proceed with the hearing of the main suit as expeditiously as possible, strictly in accordance with law and without being influenced by any

observation made in the order dated 03.07.2025. For facility of reference, the operative part of the order passed by the learned appellate court is reproduced as under:

“Accordingly, this Court is of the considered view that the Trial Court’s order dated 16.04.2025 requires modification to the extent it makes the interim injunction absolute in favour of the respondent. In the interest of justice and to safeguard the rights of both sides pending final adjudication, the impugned order is set aside to that extent, and both parties are directed to maintain status quo as regards possession with respect to the suit land.

The present appeal is allowed in the above terms. The parties shall strictly maintain status quo as on date and shall not alter the nature of the suit land, interfere with each other’s possession.

The Trial Court shall proceed with the hearing of the main suit as expeditiously as possible, strictly in accordance with law, and without being influenced by any observation made in this order which pertains solely to the interim stage.

Trial Court record be returned to the Court below along with a copy of this order. No order as to costs.

Appeal is accordingly disposed off. Be consigned to records after proper compilation.”

7. A bare perusal of the order dated 03.07.2025 passed by the learned Principal District Judge, Kupwara, reveals that the appellate court, while deciding the aforesaid Civil Miscellaneous Appeal, observed that the learned trial court could have exercised greater caution by adopting a neutral interim approach, particularly in view of the fact that both the parties claimed possession and ownership under rival assertions. The appellate court was further of the view that interference with the appellants access to revenue authorities without a declaratory adjudication reinforced the need to modify the relief granted.
8. The learned appellate court, while passing the aforesaid judgment/order, also observed that the absence of a site

inspection or appointment of a local commissioner, despite explicit pleadings regarding denial of possession, undermined the factual basis for the conclusion drawn by the learned trial court.

9. In the aforesaid backdrop, the order passed by the learned trial court was modified in the appeal preferred by the petitioners herein by issuing a direction to the learned trial court to proceed with the hearing of the main suit as expeditiously as possible, strictly in accordance with law and without being influenced by any observation made in the order passed by the appellate court, which was confined only to the interim stage.

ARGUMENTS ON BEHALF OF PETITIONERS

10. It is the specific case of the petitioners in the instant petition that since the petitioners were already in possession of the suit land, the respondents, being aggrieved of the status quo order passed by the learned appellate court, challenged the same before this Court by way of a writ petition preferred under Article 227 of the Constitution of India which was registered as CM(M) No. 289/2025. This Court, however, did not grant any interim relief and only issued notice in the matter.
11. Since the said petition had a direct bearing upon the controversy involved in the present matter, this Court directed the Registry to list the aforesaid petition along with the instant

petition so that both the matters could be decided together. Accordingly, the writ petition preferred by the respondents was also taken up along with the instant petition and both the petitions are being decided by this common order.

12. The further case of the petitioners is that failure of the respondents to obtain interim protection from this Court in CM(M) No. 289/2025 resulted in the filing of an application under Section 151 of Civil Procedure Code before the learned trial court seeking status quo and restoration of possession of the suit property as it existed on 03.07.2025. The learned trial court, in pursuance to the said application, proceeded to pass the impugned order directing appointment of two Commissioners, namely Revenue and Agriculture Commissioners, for conducting an extensive enquiry regarding the suit land.
13. Feeling aggrieved of the aforesaid order dated 29.11.2025, the petitioners have preferred the instant petition challenging the same as being without jurisdiction, inter alia, on the ground that the impugned order has been passed mechanically and without recording satisfaction regarding the ingredients necessary for appointment of a Commissioner.
14. It is specifically urged by Mr. Sheikh Manzoor, learned counsel for the petitioners that before appointing a Commissioner, the Court is required to record reasons as to why local inspection is necessary and whether oral/documentary evidence

available on record is inadequate, thereby necessitating on-spot inspection.

15. It is contended that in absence of any such reasoning in the impugned order, which according to the petitioners has been passed in a casual and mechanical manner, the same deserves to be set aside by this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India.

16. In addition thereto, it has also been urged by the petitioners that the learned trial court exceeded its jurisdiction by entertaining the application of the respondents seeking status quo and restoration of possession, which, according to the petitioners, virtually amounts to sitting in appeal over the order passed by the learned Principal District Judge, Kupwara, especially when the said order was itself the subject matter of challenge in the writ petition preferred by the respondents before this Court.

17. In the aforesaid backdrop, learned counsel for the petitioners submits that the learned trial court had no jurisdiction to entertain the said application of the respondents and to order an enquiry by appointing Commissioners for submission of a report.

18. It is further contended that the impugned order is patently illegal and deserves to be set aside by this Court on the ground that directing an enquiry through Revenue and Agriculture Commissioners and entrusting them with an extensive fact-

finding exercise reflects total non-application of mind. According to the petitioners, the Code of Civil Procedure does not envisage such parallel multidisciplinary investigation through Commissioners and, therefore, the impugned order suffers from grave jurisdictional error, being beyond the scope and ambit of Section 151 of Civil Procedure Code.

19. It is, thus, urged that the instant case is a fit one where this Court ought to exercise its supervisory jurisdiction under Article 227 of the Constitution of India and set aside the impugned order dated 29.11.2025 passed by the learned trial court in an application filed under Section 151 of Code of Civil Procedure Code seeking status quo ante.

20. Lastly, learned counsel for the petitioners submits that since the respondents failed to secure any interim direction either in the writ petition preferred by them before this Court or any interim relief from the learned appellate court, the respondents have misused the provisions of Section 151 of the Code of Civil Procedure to indirectly obtain what had been expressly denied by the superior courts.

ARGUMENTS ON BEHALF OF RESPONDENTS.

21. **Per contra**, reply stands filed on behalf of the respondents wherein a preliminary objection has been raised by Mr. Faisal Qadri, learned Senior Counsel with regard to the maintainability of the instant petition, which according to the respondents is misconceived, factually incorrect, misleading, legally unsustainable and tantamount to gross abuse of the

supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

22. The respondents, while filing the objections, have specifically pleaded that the petitioners have approached this Court with unclean hands and have intentionally omitted to disclose material facts which go to the root of the case, including their own illegal conduct subsequent to the order of status quo dated 03.07.2025 passed by the learned appellate court. According to the respondents, the supervisory jurisdiction under Article 227 of the Constitution of India cannot be invoked to shield illegal conduct or to frustrate the lawful process of a civil court.
23. It is, therefore, contended by Mr. Faisal Qadri, learned Senior Counsel appearing on behalf of the respondents, that the present petition is nothing but an attempt to stall and scuttle the lawful inquiry ordered by the learned trial court with a view to prevent the truth from coming on record.
24. In addition thereto, it has been vehemently argued by learned Senior Counsel along with Mr. Numan and Ms. Saba, Advocates, that the impugned order dated 29.11.2025 is purely an interlocutory and procedural order passed well within the jurisdiction of the learned trial court and, by no stretch of imagination, determines any substantive rights of the parties so as to occasion failure of justice warranting interference under Article 227 of the Constitution of India.

25. It has further been specifically pleaded by the respondents that they are the lawful owners and cultivators in possession of land measuring 03 kanals and 17 Marlas falling under Khasra Nos. 1710, 1712 and 1713, which, according to the respondents, was acquired by them by virtue of a gift executed by the petitioners themselves.
26. The further stand of the respondents is that possession of the said land was duly delivered to them and mutation No. 422 dated 02.11.1995 was validly attested in their favour, which continues to subsist and stands duly reflected in the revenue records.
27. The record further reveals that in the year 1998, after about three years from the attestation of the aforesaid mutation, petitioner No.1 preferred an appeal before the learned Agrarian Commissioner, Kupwara, challenging mutation No. 422 dated 02.11.1995. However, the said appeal came to be dismissed as withdrawn vide order dated 15.05.1999 on the basis of a statement made by petitioner No.1 admitting that the mutation was true and legal and thereby surrendering all rights over the said property.
28. Learned counsel for the respondents further submits that thereafter the respondents remained in peaceful and continuous possession of the aforesaid land and continued cultivating the same without any interruption for decades. However, in the year 2020, the petitioners, with ulterior motives and without any lawful authority, started illegally

interfering with and disturbing the possession of the respondents and also obstructed the cultivation and enjoyment of the suit land by stopping the flow of water being used for irrigation purposes.

29. Due to the aforesaid conduct on the part of the petitioners, the respondents were constrained to institute a civil suit for permanent prohibitory injunction against the petitioners before the court of Munsiff/Civil Judge (Junior Division), Kupwara and also sought interim relief therein. The learned trial court, vide interim order dated 22.06.2020, temporarily restrained the petitioners from interfering with the ownership, enjoyment and peaceful possession of the suit land measuring 03 kanals and 17 marlas falling under Khasra Nos. 1710, 1712 and 1713.
30. The aforesaid interim order was subsequently made absolute vide order dated 16.04.2025. Feeling aggrieved thereof, the petitioners preferred a Civil Miscellaneous Appeal and the learned appellate court, after hearing the parties, decided the said appeal vide order dated 03.07.2025 whereby the order dated 16.04.2025 was modified only to the limited extent that both the parties were directed to maintain status quo with respect to possession of the suit land.
31. Learned Senior Counsel appearing on behalf of the respondents submits that the order dated 03.07.2025 passed by the learned appellate court directing both the parties to

maintain status quo with regard to possession was clear, categorical and unambiguous.

32. The respondents, while filing the reply affidavit, have also admitted the factum of filing of a writ petition under Article 227 of the Constitution of India challenging the order dated 03.07.2025, which came to be registered as CM(M) No. 289/2025.
33. It has further been urged by the respondents in the reply affidavit that after passing of the order dated 03.07.2025 directing maintenance of status quo, the petitioners, with mala fide intention, deliberately started altering the nature and character of the suit land with a view to create a false narrative regarding possession and thereby trespassed upon the suit land during the intervening night of 19th/20th September, 2025 and illegally raised a tin shed behind the back of the respondents, which is evident from the photographs placed on record clearly depicting a tin shed existing on the said spot on the said date which was not present earlier on 06.07.2025.
34. The matter did not rest there. When the respondents came to know about the said mischief, the respondent visited the suit land on the morning of 20th September, 2025 and confronted the petitioners. However, the petitioners allegedly used unlawful force and violence upon the respondent and his family members, causing injuries to the respondent. Feeling aggrieved thereof, the respondent immediately approached the

police, which resulted in the registration of FIR No. 302/2025 at Police Station Kupwara, a copy whereof has also been placed on record along with the reply affidavit.

35. In addition thereto, the respondent also approached the Deputy Commissioner, Kupwara, by way of a written complaint dated 20th September, 2025 against the said illegal construction, who, in turn, forwarded the matter to the Tehsildar, Kupwara. Pursuant thereto, the Patwari concerned conducted a spot inspection and submitted a factual report confirming that although the respondent was the cultivator of the land, the petitioner had raised construction thereupon during the intervening night of 19th/20th September, 2025, which fact was also corroborated by the Chowkidar/Lumberdar of the area concerned.

36. In this backdrop, learned counsel for the respondents submitted that the respondent was constrained to approach the Court of learned Munsiff, Kupwara, and file an application under Section 151 of the Code of Civil Procedure in the pending suit seeking restoration of status quo so that the position of possession, as it existed on 03.07.2025, is maintained, coupled with a further direction to the Tehsildar and SHO concerned for enforcement of the order dated 03.07.2025.

37. The learned trial court, after hearing both the rival parties, passed an order dated 29.11.2025 appointing two Commissioners to ascertain the factual position on spot,

which order is the subject matter of challenge in the instant petition. The respondents, while filing the reply affidavit, have sought to justify the filing of the application under Section 151 of the Code of Civil Procedure in the pending suit.

38. Mr. Syed Faisal Qadri, learned Senior Counsel appearing for the respondents, relied upon Rule 9 of Order XXVI of the Code of Civil Procedure, which confers ample powers upon the Civil Court to appoint Commissioners with a view to elucidate any matter in dispute. For facility of reference, the aforesaid provision is reproduced hereunder:

“9. Commission to make local investigations:-

In any suit in which the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the market-value of any property, or the amount of any mesne profits or damages or annual net profits, the Court may issue a commission to such person as it thinks fit directing him to make such investigation and to report thereon to the Court:

Provided that, where the State Government has made rules as to the persons to whom such commission shall be issued, the Court shall be bound by such rules.

10. Procedure of Commissioner:-

(1) The Commissioner, after such local inspection as he deems necessary and after reducing to writing the evidence taken by him, shall return such evidence, together with his report in writing signed by him, to the Court.

(2) Report and depositions to be evidence in suit. Commissioner may be examined in person.-

The report of the Commissioner and the evidence taken by him (but not the evidence without the report) shall be evidence in the suit and shall form part of the record; but the Court or, with the permission of the Court, any of the parties to the suit may examine the Commissioner personally in open Court touching any of the matters referred to him or mentioned in his report, or as to his report, or as to the manner in which he has made the investigation.

(3) Where the Court is for any reason dissatisfied with the proceedings of the Commissioner, it may direct such further inquiry to be made as it shall think fit.

10A. Commission for scientific investigation.-

(1) Where any question arising in a suit involves any scientific investigation which cannot, in the opinion of the Court, be conveniently conducted before the Court, the Court may, if it thinks it necessary or expedient in the interests of justice so to do, issue a

commission to such person as it thinks fit, directing him to inquire into such question and report thereon to the Court.

(2) The provisions of rule 10 of this Order shall, as far as may be, apply in relation to a Commissioner appointed under this rule as they apply in relation to a Commissioner appointed under rule 9.”

39. Relying upon the aforesaid provision, learned counsel for the respondents submits that the word “elucidate” used therein ordinarily means “to make clear” and, therefore, whenever a Civil Court is of the opinion that there exists any confusion or contradiction with respect to any matter involved in a suit, a Commissioner may be appointed to ascertain the factual and actual position with respect to the controversy in question.
40. Accordingly, it was argued that the learned trial court was fully justified in appointing the Commissioners, particularly in light of the contradictory stands taken by the rival parties coupled with the serious allegations regarding post-status quo changes. Therefore, according to the learned Senior Counsel, no fault can be attributed to the learned trial court and the challenge to the impugned order deserves dismissal, as the appointment of the Commissioners was made solely for the purpose of verifying the ground realities.
41. The learned Senior Counsel has also relied upon Rule 10(a) of the Code of Civil Procedure, which gives ample power to the Court below to appoint a Commissioner and to conduct even a scientific investigation. The learned trial court invoked the said power and passed the impugned order appointing the District Agriculture Officer as a Commissioner to collect samples and satellite imagery to ascertain whether there was

any agricultural activity, particularly sowing and harvesting of paddy crops, in the area covered by the tin shed on spot.

42. Thus, relying upon the aforesaid rules, Mr. Syed Faisal Qadri, learned Senior Counsel, submits that the Commissioner appointed by the Court below while invoking the aforesaid powers acts as an extended arm of the Court with a view to facilitate the said Court in deciding the controversy in question, and the said report by no stretch of imagination determines the rights of the parties nor is it binding, as the same remains subject to further objections, rebuttal evidence and final appreciation by the trial court. Therefore, the apprehension projected by the petitioners in the instant matter that the trial court has delegated its adjudicatory function is wholly misconceived, imaginary and contrary to law as well as the facts of the instant case.

43. Lastly, learned counsel for the respondents has vehemently argued that the jurisdiction of this Court under Article 227 of the Constitution of India is supervisory and limited in extent and cannot be invoked to interfere with discretionary procedural orders of the learned trial court unless there is patent lack of jurisdiction, perversity or manifest injustice. According to learned counsel, the impugned order does not suffer from any such infirmity which could give a justifiable right to the petitioners to invoke the powers of this Court under Article 227 of the Constitution of India.

44. In the aforesaid backdrop, learned counsel submits that the writ petition, being devoid of merit, deserves dismissal at the very threshold.

LEGAL ANALYSIS

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

46. This Court has heard learned counsel for the parties at length and perused the material available on record. The controversy involved in the present petition is required to be examined in the light of the settled legal principles governing the exercise of supervisory jurisdiction of this Court and the powers of the Civil Court to direct local investigation for proper adjudication of a dispute.

47. It is well settled that the jurisdiction exercised by this Court is supervisory and not appellate in nature. The purpose of such jurisdiction is to ensure that subordinate Courts and tribunals act within the bounds of their authority and in accordance with law. However, such jurisdiction is required to be exercised sparingly and only in exceptional circumstances where there exists patent illegality, perversity, jurisdictional error or manifest miscarriage of justice.

48. **In Shalini Shyam Shetty v. Rajendra Shankar Patil, reported as (2010) 8 SCC 329** the Hon'ble Supreme Court authoritatively held that :

“In exercise of its power of superintendence High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or Courts subordinate to it, is a possible view. In other words the jurisdiction has to be very sparingly exercised.”

49. Similarly, in **Estralla Rubber v. Dass Estate (P) Ltd reported as 2001 (8) SCC 97** the Hon'ble Supreme Court observed that ***“ the power of superintendence under Article 227 cannot be invoked to correct an error of fact which only a superior court can***

do in exercise of its statutory power as a court of appeal and that the High Court in exercising its jurisdiction under Article 227 cannot convert itself into a court of appeal when the legislature has not conferred a right of appeal”

50. Viewed in the aforesaid legal backdrop, this Court would not ordinarily interfere with interlocutory or procedural orders passed by subordinate Courts unless such orders are shown to be wholly without jurisdiction, patently arbitrary or resulting in manifest failure of justice. The supervisory jurisdiction cannot be invoked to obstruct the normal course of trial or to substitute the discretion exercised by the trial Court merely because another possible view exists on the same set of facts.
51. Adverting to the facts of the present case, the instant petition has been preferred against the order dated 29.11.2025 passed by the learned trial Court whereby two Commissioners have been appointed and directed to submit their reports before the Court below.
52. A careful perusal of the record reveals that the said exercise has been undertaken by the learned trial Court in the backdrop of the observations already made by the learned appellate Court while deciding the appeal preferred by the petitioners against the interim order passed by the learned trial Court.
53. The learned appellate Court, while modifying the interim order passed by the learned trial Court, had specifically observed that greater caution was required to be exercised in view of the claims of possession and ownership set up by the parties. The appellate Court further observed that absence of site inspection or appointment of a local Commissioner, despite specific pleadings regarding denial of possession, had undermined the factual basis of the conclusions drawn by the learned trial Court at the interim stage.
54. The appellate Court, while recording the aforesaid observations, modified the interim order and directed the

parties to maintain status quo with respect to possession while simultaneously directing the learned trial Court to proceed with the hearing of the main suit expeditiously and strictly in accordance with law.

55. In the aforesaid backdrop, this Court is of the considered view that the learned trial Court, while appointing the Commissioners, has merely acted in furtherance of the observations and directions issued by the learned appellate Court with a view to ascertain the factual position on spot and effectively adjudicate the controversy involved in the suit.
56. The contention of the petitioners that the learned trial Court has exceeded its jurisdiction by appointing the Commissioners does not merit acceptance for the reason that the impugned order is essentially procedural and interlocutory in nature and does not finally determine the rights of the parties. The appointment of Commissioners, by itself, neither amounts to adjudication of title nor determination of possession, but is only a step intended to assist the Court in arriving at a proper conclusion regarding the factual controversy involved in the matter.
57. This Court is also of the considered opinion that once rival claims regarding possession and allegations regarding alteration of the nature of the suit property were brought before the learned trial Court, the said Court was fully justified in directing local investigation so as to ascertain the actual position on spot and preserve the sanctity of the proceedings pending before it.
58. Therefore, no perversity, patent illegality or jurisdictional error can be attributed to the impugned order so as to warrant interference by this Court in exercise of its supervisory jurisdiction. The impugned order appears to have been passed by the learned trial Court strictly in aid of effective adjudication of the controversy involved in the suit and in furtherance of the observations already made by the learned appellate Court.

59. Needless to observe that the reports submitted by the Commissioners shall only aid the learned trial Court in appreciating the factual controversy involved in the matter and shall not by themselves determine the rights or possession of either party. The learned trial Court shall consider the said reports strictly in accordance with law after affording adequate opportunity to both the parties to file objections and lead evidence.
60. When learned counsel for the petitioners was confronted with the aforesaid position, he fairly submitted that the petitioners would have no objection in case the learned trial Court proceeds with the suit in accordance with law after receipt of the reports of the Commissioners appointed by the Court below. Learned counsel, however, submitted that the grievance of the petitioners is confined to the apprehension that the observations made on behalf of the respondents may be construed in a manner so as to prejudice the rights of the petitioners on the question of possession and title before final adjudication of the suit.
61. Learned counsel for the petitioners further submitted that the petitioners would have no objection if the learned trial Court proceeds with the matter independently, strictly in accordance with law and on the basis of the material available on record, without being influenced by any observation made by this Court while deciding the present petition, while also duly considering the reports, if any, submitted by the Commissioners in accordance with law.
62. Since both the parties have agreed for disposal of the instant petition, this Court refrains from interfering with the merits of the case or venture into the maintainability thereof and with the consent of the parties remands the matter back to the learned trial court to proceed in accordance with law and decide the said suit expeditiously in the light of the reports of both the Commissioners appointed by the learned Trial Court without being influenced by any observation made by this

Court while deciding the instant petition and the clubbed petition preferred by the respondents, which has also been decided along with the instant petition. As a necessary corollary, order passed by learned Munsiff/Civil Judge (Junior Division), Kupwara dated 29.11.2025 is upheld.

63. Accordingly, the writ petition bearing CM(M) 548/2025 in the aforesaid backdrop, is **disposed of**.
65. Insofar as the other petition is concerned which has been preferred by the respondent registered as CM(M) No. 289/2025 is concerned which has direct bearing upon the controversy in question was also taken up along with the instant petition and since a detailed order has already been passed in CM(M) No. 548/2025, the relief claimed in the instant petition is rendered infructuous and accordingly Mr. Syed Faisal Qadri, learned Senior counsel has no objection in case the said petition is also disposed in the light of what has already been held in the connected petition bearing CM(M) No. 548/2025. Accordingly, CM(M) No. 289/2025 is also **disposed of** along with all connected applications in terms of the order passed by this Court in CM(M) No. 548/2025.
66. Both the parties are directed to appear before the learned Trial Court on 5th June, 2026.

(WASIM SADIQ NARGAL)
JUDGE

Srinagar

21.05.2026

Sakeena

- | | |
|---|---------------|
| 1. <i>Whether the Judgment is Speaking?</i> | <i>Yes/No</i> |
| 2. <i>Whether the Judgment is Reportable?</i> | <i>Yes/No</i> |