

Sr.No.3

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

**CR No. 3/2026
CM No.232/2026
Cav No. 51/2026**

Date of order:- 31.01.2026
Uploaded on:- 02.02.2026

- 1. Sohan Singh**, Age 48 years
S/O Late Krishan Singh
- 2. Champa Devi**, Age 61 years
W/O Late Prem Singh
- 3. Radha Rani**, Age 63 years
W/O Late Krishan Singh
All R/O Bhagocha Chack (Bhaiya)
Teh. Hiranagar, District Kathua.

....Petitioners

Through :- Mr. Rohit Bharti, Advocate.

Versus

Chuni Lal S/O Bhulla
R/O Gurha Mundian,
Tehsil Hiranagar
District Kathua

....Respondent(s)

Through :- Mr. Amit Gupta, Advocate.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

ORDER
31.01.2026

With the appearance of Mr. Amit Gupta, learned counsel appearing on behalf of the caveator-respondent, **Caveat No.51/2026** is discharged.

CR No. 3/2026

- 1.** The instant revision petition, under Section 115 of the Code of Civil Procedure, has been preferred by the petitioners against the order dated 30.12.2025 passed by the Court of learned Civil Judge (Junior Division), Hiranagar, Kathua in File No.82/Civil, by virtue of which, application moved by the petitioners under Order 7 Rule 11 of the CPC was dismissed.

2. The respondent-Chuni Lal filed a civil suit for permanent prohibitory injunction seeking to restrain the defendants including the petitioners herein from causing any sort of interference in any manner and by any mode, in the peaceful possession of the plaintiff over the land, measuring 11 kanals 13 marlas, comprising of Khasra No.1194, situate at Bhaiya, Tehsil Hiranagar and District Kathua, including by not creating obstruction in cultivation, encroaching upon and grabbing the same and causing ouster of the plaintiff therefrom forcibly either themselves or through anybody else.

3. During the pendency of the suit, the defendants 5, 6 and 7 namely Champa Devi, Sohan Singh and Radha Rani, (petitioners herein), moved an application under Order 7 Rule 11 of CPC seeking rejection of plaint, pleading therein that the dispute raised in the suit pertains to alleged cultivating possession and tenancy rights, which are matters exclusively triable by the competent revenue authorities under the Jammu & Kashmir Agrarian Reforms Act, 1976, as Sections 25 and 27 bar the jurisdiction of civil courts from entertaining, deciding or dealing with any such question; that the plaintiff had an equal efficacious remedy under the provisions of the J&K Agrarian Reforms Act to approach the Tehsildar or Collector for redressal of his grievance rather than invoking the civil court's jurisdiction.

4. After entertaining objections to the application filed by the plaintiff/non applicant (respondent herein), the trial court rejected the application vide impugned order holding that the suit does not appear to be barred by law i.e. J&K Agrarian Reforms Act, 1976.

5. Aggrieved of the order impugned passed by the trial court, the petitioners have challenged the same through the medium of the present civil revision moved under Section 115 of the CPC raising the ground that the trial

court has misdirected itself by holding that the court had jurisdiction in the matter and overlooked the arguments raised before it, particularly, in view of law laid down by the Full Bench of this Court in a case titled '**Jagtu & Ors. V. Badri & Ors.**' reported as *1979 KLJ 172*.

6. Heard and considered.

7. The learned counsel for the petitioners has argued that the respondent as plaintiff had pleaded in his plaint that the land in question was under his cultivating possession, meaning thereby, that the land, being agricultural land, was governed by Agrarian Reforms Act, which provides efficacious remedy under Section 19(3)(e) of the Agrarian Reforms Act to move a Revenue Authority seeking the relief which has been pleaded in the plaint, as the trial court lacked jurisdiction in the matter in view of the authoritative judgment of this court in a case titled '**Jagtu & Ors. V. Badri & Ors.**' reported as *1979 KLJ 172*. It was finally prayed that the impugned order passed by the trial court be set aside, holding that the plaint is liable to be rejected and the suit before the Trial Court be dismissed.

8. The learned counsel for the respondent, on the other hand, argued that the impugned order has been passed by the trial court perfectly in consonance with the legal principles and does not warrant for any interference by this court. He has argued that after the Re-organization of the State of Jammu & Kashmir, the Jammu & Kashmir Agrarian Reforms Act has also been amended and the relevant sub-section (3) of Section 19 has been omitted and the argument raised by the learned counsel for the petitioners could be relevant had this provision of law of the Agrarian Reforms Act be not omitted. He has relied upon an order dated 10.10.2025, passed by a Co-ordinate Bench of this court in CR No. 38/2025 titled '**Surjit Singh v.**

Joraveer Singh' whereby it has been held that in a similar facts and circumstances of the case, the suit was held to be maintainable. It was, finally, prayed that the revision petition be dismissed and the order impugned be upheld, so that the trial court proceeds further in the matter.

9. The respondent as plaintiff had filed a civil original suit before the court below, asserting therein that his father Bulla S/O Gopi Brahman had been cultivating land measuring 11 kanals 13 marlas, comprising of Khasra No.1194 (hereinafter called 'suit land'), situate at Village Bhaiya, Tehsil Hiranagar, District Kathua prior to 1971 and the possession of his deceased father was recorded in the cultivation column of revenue record; that soon after the death of his father, the respondent-plaintiff along with his brother stepped into his shoes and started cultivating the suit land and had been cultivating the same continuously; that the respondent-plaintiff, along with his brother, filed a suit for declaration of plaintiff as owner in possession of the suit land by way of adverse possession under Section 19(3)(e) of the Agrarian Reforms Act in the court of Sub Divisional Magistrate, Hiranagar, who on 21.08.2020, declared him as owner by way of adverse possession.

10. The respondent-plaintiff had further alleged that on 28.09.2025, some of the defendants trespassed into the suit land with common intention, threatened the plaintiff to dispossess him from the suit land; that again on 18.11.2025, the defendants with common criminal intention trespassed into the suit land with a tractor and tried to dispossess the plaintiff-respondent by installing cemented poles with barbed wire around the suit land and making tin shed in the middle of the suit land. As such, he was left with no other option but to move a civil court and file the suit.

11. The petitioners-defendants before the court below took a stand that the respondent-plaintiff made a wrong claim that he was cultivator and that he filed a suit for declaration before the competent revenue authority, in which some order dated 28.08.2020 had been passed and stated that no such order exists and fraudulent document has been annexed with the suit by the plaintiff as is evident by the annexures placed on record by the defendants/petitioners with their written statement.

12. The contention of the learned counsel for the petitioners-defendants to rely upon the full bench judgment of this court in a case titled '**Jagtu & Ors. V. Badri & Ors.**' reported as *1979 KLJ 172* is misplaced in view of the fact that the aforesaid judgment had been passed interpreting the provisions of Section 19(3)(e) of the Agrarian Reforms Act, which after the Re-organization of the State of Jammu & Kashmir has been omitted from the Act. As such, that judgment cannot be applied to the facts and circumstances of the case before the trial court.

13. This court in CR No.50/2010 titled '**Suresh & Ors. V. Som Nath & Anr.**' decided on 09.08.2023 has held that a civil suit seeking permanent prohibitory and mandatory injunction concerning land possessory rights is cognizable by a civil court and not barred under Section 19 of the J&K Agrarian Reforms Act, 1976. This court, again, in a case CM(M) No. 202/2023 titled '**Bagh Ali & Ors. V. Mushtaq Ahmed & Ors.**' decided on 23.03.2024 held that a plaint cannot be rejected under Order 7 Rule 11 CPC, unless the grounds explicitly mention that the provisions, such as, lack of cause of action, improper valuation, insufficient court fee or barred under any law are satisfied and that the court has to examine only the averments in the plaint to determine such rejection.

14. This court under the similar facts and circumstances of the case on hand in CR No.38/2025 titled '**Surjit Singh v. Joraveer Singh**' has held in para 9 which is extracted as under for the convenience of reference:

“9. In the present case, none of the aforesaid disputes is subject matter of determination before the learned trial court. The respondent/plaintiff claims himself to be in the physical possession of the suit land and he is seeking an injunction against the petitioner/defendant, who according to him is trying to interfere in his possession. The respondent/plaintiff, in order to support his case is relying upon gift deed dated 02.01.2009, the entries in the khasra girdawari and the mutation attested in his favour. The contention of the petitioner/defendant that the gift deed is a sham document and it is actually he, who is in possession of the suit land, can be determined only after the trial of the case and not at this stage. Prima-facie, the respondent/plaintiff has placed on record documents which show that he has title to the suit land and he is also in possession of the same. Therefore, as per the illustrations given by this court in the judgment titled 'Jagtu Vs. Badri & Ors.' (AIR 1980 J&K 1) the suit of present nature is cognizable by the civil court. Thus, the learned trial court has not committed any illegality while passing the impugned order.”

15. With the omission of sub-section (3) of Section 19 of the Agrarian Reforms Act from the statutes after the Re-organization of State of Jammu & Kashmir, the jurisdiction with the civil court with regard to possessory rights seeking injunction thereon cannot be stated to be ousted. The case, on hand, has been filed by the plaintiff claiming that he has already been declared as owner by a revenue authority vide order dated 21.08.2020 and that he is holding possession over the suit land, as such, with a view to protect his

possessory rights over the land of which he has been declared as the owner, he has filed a suit for permanent prohibitory injunction before the civil court. In such a situation, it is only the civil court which has jurisdiction over the matter and the contention of the petitioners/defendants that the civil court does not have jurisdiction, as such, the plaint was liable to be rejected by the trial court, is misplaced.

16. The trial court has passed a very reasoned order which does not call for any interference as the plaint cannot be rejected for the aforesaid reasons on the ground that the trial court does not have jurisdiction in view of the Agrarian Reforms Act. The impugned order is upheld and civil revision, found to be without any merit and substance, is thus, rejected.

17. The civil revision is accordingly *dismissed*.

Jammu:
31.01.2026
Raj Kumar

(M.A. Chowdhary)
Judge

Whether the order is speaking?	Yes
Whether the order is reportable?	Yes