

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

.....
CFA No. 24/2012.

Reserved on 31.12.2024
Pronounced on 28.02.2025.

1. Peer Rattan Nath Mahant Sh. Shiv ji Maharaj Peer kho, Jammu.
2. Sh. Banari Lal Sharma S/O Pt. Behari Lal Sharma R/O Patel Nagar, Akhnoor Road, Jammu.

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

Through: Mr. D. R. Khajuria, Advocate.
Mr. Vikas Mangotra, Advocate.
Anuj Dewan Raina, Advocate.

Versus

1. Wazir Onkar Singh S/o Late Wazir Mansa Ram;
2. Wazir Sukh Dev Singh (Insane) S/o Wazir Mansa Ram;
3. (a) Chaitanya Choudhary @ Chaitanya Mahajan S/O Late Vinay Kumar Choudhary, R/O K. C Mansion, Shakti Nagar, Jammu.
- 3(b) Vishal Choudhary @ Vishal Mahajan S/O Late Vinay Kumar Choudhary R/O K. C Mansion, Shakti Nagar, Jammu;
- 3(c) Smt. Saroj Mahajan Wd/O Late Vinay Kumar Choudhary R/o K. C Mansion, Shakti Nagar, Jammu;
4. State of J&K Th. Commissioner Secretary, Home Department, Srinagar;

.....Respondent(s)

Through: Mr. O. P. Thakur, Sr. Advocate with
Mr. R. K.S. Thakur, Advocate.

CORAM: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

JUDGMENT
28.02.2025.

1. The instant 1st Appeal arises from the judgment and decree dated 07.06.2012, passed by the court of 1st Additional District Judge, Jammu (hereinafter for short "the trial court") in Civil Original Suit No. 11/40 titled as "*Peer Rattan Nath and Another v. Wazir Onkar Nath*", whereby the suit

filed by the plaintiffs/appellants herein has been dismissed on the ground of it being not maintainable.

2. In the suit supra, the plaintiffs/appellants herein had sought a decree of declaration, declaring that the decree dated 26.04.1979, passed by this Court in civil suit No. 01 of 1961 titled as "*Smt. Parvati v. Wazir Beli Ram and others*" as null and void to the extent it includes the land measuring 06 Kanals and 04 marlas, falling under Khasra No. 02, Khewat No. 102 and Khata No. 301, (hereinafter for short "the land in question") owned and possessed by the plaintiffs/appellants herein, besides also having sought a declaration that the sale deed executed by *Wazir Mansa Ram*-father of defendants/respondents 1 & 2 herein through his attorney in favour of defendant/respondent 3 herein and registered by the Sub-Registrar (North) Jammu, on 02.06.2001, along with mutation No. 2762 dated 02.01.2003, be also declared null and void, inoperative to the extent it affects the rights of the plaintiffs/appellants herein over the land in question. A consequential decree and injunction had also been sought by the plaintiffs/appellants in the suit.
3. Facts emerging from the pleadings of the parties and the material on record are detailed out in brief as under:-

- (I) A suit for partition of immoveable properties owned by one *Wazir* family was instituted by one *Smt. Parvati Wd/O Wazir Mehar Singh* on 26.08.1961, before this Court against "*Wazir Beli Ram and others*" which suit came to be registered as Civil Original Suit No. 01/1961. *Smit Parvati* in the suit claimed entitlement of 1/5th share in the total property. A preliminary decree was passed

in the said suit on 19.03.1964, and a Commission was issued for effecting partition by metes and bounds to the extent of plaintiff-*Smt. Parvati's* share in the suit property, reflected in annexure-A thereto, detailed out in the preliminary decree.

- (II) The Commissioners proceeded to the site, executed the mandate and submitted their report/plan on 14.03.1972, in which report they noted that a parcel of land measuring 06 Kanals 04 marlas, covered under Khasra No. 02, in estate Nowabad, though forming part of the joint property had not been included in the suit property, as such, made its recommendation for its inclusion in the partition proceedings.'
- (III) Upon submission of the report by the Commissioners, the plaintiff-*Smt. Parvati* filed an application before this Court seeking passing of the final decree and after considering the submissions of counsel for the parties, this Court on 26.04.1974, passed a final decree, directing the separation of plaintiff's 1/5th share through partition of the property mentioned in annexure-A of the final decree and the plaintiff-*Smt. Parvati* was held entitled to 81 Kanals, 04 marlas of land as per partition plan which included the aforesaid 06 Kanals and 04 marlas of land covered under Khasra No. 02 in estate Nowabad.'
- (IV) 'An appeal/LPA was preferred against the said judgment and decree passed by this Court on 26.04.1974, which however, came to be dismissed on 02.05.1975'.

- (V) *Wazir Mansa Ram* who had been substituted as plaintiff upon the demise of original plaintiff-Smt. *Parvati* vide order dated 20.11.1969, filed an application seeking execution of decree dated 26.04.1974, before this Court which came to be transferred to the court of District Judge, Jammu, followed by further transfer to the court of Additional District Judge, Jammu for disposal under law'. 'The judgment debtors named therein, in the said decree dated 26.04.1974, were put on notice who after entering appearance filed objections thereto and the Executing court consequently after hearing both the sides and after noticing the chronology of events which took place, ruled over multiple objections raised by the judgment debtors and ordered issuance of a fresh warrant on 14.06.1976, for the delivery of possession of various properties in terms of judgment and decree under execution dated 26.04.1974, which warrant was finally executed on 18.06.1974, by following requisite procedure including beating of drums and symbolic possession of the property in question to the decree holder which being in possession of Interrogation Centre, Jammu came to be handed over to the decree holder'.
- (VI) Pursuant to the final decree dated 26.04.1974, Tehsildar Jammu in furtherance thereof attested mutation No. 1418 dated 30.09.1997, with respect to the land in question in favour of *Wazir Mansa Ram*'.
- (VII) 'Subsequently, one *Om Prakash Dalmotra*, claiming to be the lessee of *ManirShiv ji Maharaj Peer kho, Jammu* in respect of

land in question challenged the aforesaid mutation No. 1418 before the Director Land Records, Jammu who exercised the powers of the Settlement Officer and the said challenge succeeded and in terms of order dated 21.10.2004, the mutation in question was modified, deleting the land in question there from.

(VIII) 'Meanwhile, prior to the passing of the said order by the Settlement Officer dated 21.10.2004, *Wazir Mansa Ram* had sold the land in question by way of a sale deed dated 01.06.2001, in favour of the original respondent 3 herein, pursuant to which mutation No. 2762 had been attested on 01.01.2003 which mutation No. 2762 also came to be challenged in an appeal before the Director Land Records, Jammu which appeal as well came to be allowed vide order dated 08.01.2005, setting aside the same on the ground that the land in question was neither included in the schedule of joint property in the suit filed by *Smt. Parvati*, nor was it incorporated in the preliminary decree-annexure to the final decree and was not, as such, subject to partition'.

(IX) 'The aforesaid order dated 08.01.2005, was assailed by the respondents 1-3 herein before the Settlement Commissioner, Jammu in an appeal which however, was dismissed vide order dated 11.10.2005, whereupon a Revision Petition came to be preferred before the Financial Commissioner, Jammu against the order of Settlement Commissioner which too met with the same fate and came to be dismissed vide order dated 06.10.2006'.

(X) 'Aggrieved by the said order/s, the respondents 1-3 herein challenged the same before this Court in OWP No.909/2006, and after hearing the parties, this Court dismissed the said petition on 25.03.2011, which came to be assailed by the respondent 3 in Latter's Patent Appeal (LPA), bearing No. 129/2001, in which the LPA Bench while passing order dated 01.02.2012, made the following observations:-

(i) *"Having heard learned counsels for the appellants as well as the respondents and having regard to the fact that a civil suit titled Peer Rattan Nath &Ors. v. Wazir Onkar Singh &Ors. preferred by the contesting private respondents is pending on the files of learned 1st Additional District Judge, Jammu, where the issues raised therein have to be thrashed out, we only direct the parties to work out their remedy in the said suit in order to get a lasting solution.*

(ii) *We only direct the concerned court, before whom the civil suit is pending to expedite the hearing of the suit and in any event dispose of the same within six months from the date of production of copy of this order. We make it clear that the concerned civil Court will be at liberty to dispose of the suit on its own merits uninfluenced by whatever stated by the learned Single Judge in the order impugned in this appeal dated 25.02.2011 passed in OWP No. 909/2006 as well as the orders which were impugned in the writ petition. Registrar Judicial to take note of it.*

(iii) *This appeal shall be taken up for hearing after disposal of the aforesaid titled suit".*

(XI) 'During the pendency of the aforesaid writ petition (OWP No. 909/2006) filed by respondents 1-3 herein, *Peer Rattan Nath and another. v. Wazir Onkar Singh and others*, suit

was instituted by the plaintiffs/appellants before the trial court in April, 2008, wherein besides some of the aforesaid facts, it came to be pleaded that *Mandir Shivji Maharaj Peer Kho*, Jammu, a religious institution owns and possesses various properties across the State of Jammu and Kashmir, including the land in question measuring 06 Kanlas and 04 marlas, covered under Khasra No. 02 Khewat No. 102 and Khata N.301, situated at Nowabad, Akhnoor road, Jammu under possession of the joint Interrogation Centre of the Home Department since 1965 and that the ownership of the said land stood vested in the plaintiff/appellant 1 herein through mutation No. 401 dated 16.05.1958, where-after the said land stands leased out by the plaintiff/appellant 1 to one *Om Prakash Dalmotra S/O Shri Beli Ram* vide lease deed dated 01.07.1985, executed by *Mahant Peer Shivrathji* and subsequently, said *Om Prakash Dalmotra* sub-leased the land in question to plaintiff/appellant 2 herein through lease deed dated 25.10.2004, registered before Sub-Registrar, Jammu on 08.11.2004, contending further in the said suit that the suit instituted by *Smt. Parvati* for partition for her 1/5th share in the immoveable properties of *Wazir* family before this Court, a preliminary decree was passed and the Commissioners was appointed to formulate a partition plan, however, the said Commissioners in derogation of their

mandate inadvertently and fraudulently included the land in question measuring 06 Kanals and 04 marlas covered under Survey No. 02 in their report/partition plan submitted before this Court, even though said land was never part of the said property while asserting further in the suit that the decree obtained in the suit by *Smt. Parvati* was not implemented and was not binding upon them as the Khasra No. 2 had never formed part of the properties owned by the *Wazir* family or by *Smt. Parvati*. The plaintiffs/appellants herein in the suit further more refuted the claim of the defendants/respondents herein that there had been any exchange of land in question with land falling under Khasra No. 391.

‘On the strength of the aforesaid facts pleaded in the suit, the plaintiffs/appellants herein claimed rightful ownership over the land in question and asserted their entitlement to recover possession thereof from the joint Interrogation Centre, Jammu’.

(XII) ‘The defendants/respondents herein filed their written statement to the suit supra wherein they have categorically controverted the averments made in the plaint *inter-alia* on the ground that the suit was neither maintainable in the present form nor was the trial court vested with the jurisdiction to entertain the same or grant the reliefs prayed therein, while pleading further that the decree passed by this

Court in the suit filed by *Smt. Parvati* had been upheld by the Division Bench in an appeal which was preferred by the defendants in the earlier suit and consequently, the allegations of fraud purported by the Commissioners and this Court were untenable and without any legal basis. It came to be additionally pleaded by the defendants/respondents herein that the predecessor in interest of defendants/respondents 1 & 2 herein and *Mandir Peer Kho* had exchanged their respective lands on or before 1912-1913, *Bikrimi* and land falling under Khasra No. 391 min was originally the proprietary land of the predecessors in interest of defendants/respondents herein which was exchanged with the land in question measuring 06 Kanals and 04 marlas, falling under Survey No. 02, belonging to the Temple and, as a result of this exchange, the *Wazir* family, of which *Smt. Parvati* was a member became the absolute owner of the same and subsequently, came to be provided to *Smt. Parvati* in accordance with the partition plan, prepared by the Commissioners and that the said land was duly incorporated in the final decree after its endorsement and acceptance by this Court’.

‘It came to be lastly pleaded by the defendants/respondents 1 & 2 herein in the written statement that the reliefs sought by the plaintiffs/appellants

herein were not available through the institution of the suit and, as such, the suit is liable to be dismissed’.

(XIII) Based on the aforesaid pleadings of the parties, the trial court framed as many as nine issues, one of which was subsequently deleted and two issues were re-casted and following were finally issues framed for trial by the trial court:-

1. *Whether the suit in the present form is not maintainable? (OPD)*
2. *Whether the suit is within time? (OPD)*
3. *Whether Court has no jurisdiction to try the present suit?(OPD)*
4. *Whether the plaintiff No. 1 is the owner of land measuring 6 Kanals 04 marlas comprising Khasra No. 02, Khewat No. 102 and Khata No. 301 situated at Nowabad, Akhnoor Road, Jammu? (OPP)*
5. *Whether the suit land was given by the plaintiff No. 1 to Wazirs in exchange of Khasra No. 391 min, if so what is its effect on the suit? (OPD)*
6. *Whether the decree dated 26.04.1974 passed by the Hon’ble High Court in Civil Suit No. 1 of 1961 titled Mst. Parvati Vs. Wazir Bali Ram and others is nullity to the extent it direct partition of land measuring 6 Kanals 04 marlas comprising Khasra No. 2 Khewat No. 102 and Khata No. 301 situated at Nowabad, Jammu as it neither form part of suit property mentioned in annexure-A with the plaint nor it forms the part of the preliminary decree?(OPP)*
7. *In case Issue No. 4 and 6 are decided in affirmative whether sale deed dated 01.06.2001 executed by late Wazir Mansa Ram father of defendant No. 1 and 2 through his attorney registered on 02.06.2001 in favour of defendant No. 3 with respect to land measuring 6 Kanals 04 marlas comprising Khasra No. 2 Nowabad is valid?(OPD)*
8. *Relief?(OPP).*

(XIV) The trial court vide order dated 22-09-2009 treated issues 1 to 3 as preliminary issues, however, vide order

dated 18-03-2012 on the admission of the counsel for the parties that issue no. 2 relating to the limitation was a mixed question of fact and law and could not be decided without evidence, the said issue no. 2 was dropped from the said preliminary issues and consequently the counsel for the parties came to be directed to advance arguments on issues 1 and 3 alone and after hearing the counsel for the parties on said issues 1 and 3, the trial court dismissed this suit in terms of the impugned judgment and decree dated 07-6-2012 on the grounds that the plaintiffs appellants herein had a remedy before the forum envisaged under Rules 99, 100, 101, and 103 of Order 2 of the Code of Civil Procedure and not by a separate suit.

4. The plaintiffs appellants herein have questioned the impugned judgment and decree in the instant appeal on multiple grounds, primarily on the grounds that the land in question was never owned by the Wazir family, but was in fact owned by the temple Peer Kho and was in its possession till 1965 when it was taken over by the police department and that the plaintiffs appellants were neither a party to the suit filed by *Smt. Parvati* nor were they ever dispossessed from the land in question, as such, there was no occasion for the plaintiffs appellants herein to file a claim

under Order 21, Rule 99 of the Code and that assuming the warrant of possession was executed in 1976 by following the requisite procedure, including beating of drums and handing over of the symbolic possession of the land in question to the decree holder, the Rules 97 to 103 of Order 21 of the Code were not in existence at that relevant point of time in the Code and as such, the rules of procedure thus cannot be made applicable retrospectively, therefore, the remedy under the said rules as held by the Trial Court was not available.

Heard learned counsel for the parties and peruses the record.

5. Before advertng to the case set up by the appellants herein in the instant appeal, a reference to the following provisions of Rules 35, 36, 99, 100, 101 and 103 of Order 21 of the Code would become imperative:

35. Decree for immovable property.

(1) Where a decree is for the delivery of any immovable property, possession thereof shall be delivered to the party to whom it has been adjudged, or to such person as he may appoint to receive delivery on his behalf, and, if necessary, by removing any person bound by the decree who refuses to vacate the property.

(2) Where a decree is for the joint possession of immovable property, such possession shall be delivered by affixing a copy of the warrant in some conspicuous place on the property and proclaiming the beat of drum, or other customary mode, at some convenient place, the substance of the decree.

(3) Where possession of any building on enclosure is to be delivered and the person in possession, being bound by the decree, does not afford free access, the Court, through its officers, may, after giving reasonable warning and facility to any woman not appearing in public according to the customs of the country to withdraw, remove or open

any lock or bolt or break open any door or do any other act necessary for putting the decree-holder in possession.

36. Decree for delivery of immovable property when in occupancy of tenant.—Where a decree is for the delivery of any immovable property in the occupancy of a tenant or other person entitled to occupy the same and not bound by the decree to relinquish such occupancy, the Court shall order delivery to be made by affixing a copy of the warrant in some conspicuous place on the property, and proclaiming to the occupant by beat of drum or other customary mode, at some convenient place, the substance of the decree in regard to the property.

99. Dispossession by decree-holder or purchaser.—

(1) Where any person other than the judgment debtor is dispossessed of immovable property by the holder of a decree for the possession of such property or, where such property has been sold in execution of a decree, by the purchaser thereof, he may make an application to the Court complaining of such dispossession.

(2) Where any such application is made, the Court shall proceed to adjudicate upon the application in accordance with the provisions herein contained.

100. Order to be passed upon application complaining of dispossession.—Upon the determination of the questions referred to in rule 101, the Court shall, in accordance with such determination,—

(a) make an order allowing the application and directing that the applicant be put into the possession of the property or dismissing the application; or

(b) pass such other order as, in the circumstances of the case, it may deem fit.

101. Question to be determined.—All questions (including questions relating to right, title or interest in the property) arising between the parties to a proceeding on an application under rule 97 or rule 99 or their representatives, and relevant to the adjudication of the application, shall be determined by the Court dealing with the application and not by a separate suit and for this purpose, the Court shall, notwithstanding anything to the contrary contained in any other law for the time being in force, be deemed to have jurisdiction to decide such questions.

103. Orders to be treated as decrees.—Where any application has been adjudicated upon under rule 98 or rule 100, the order made thereon shall have the same force and be subject to the same conditions as to an appeal or otherwise as if it were a decree.]

As is evident from above, under **Order 21 Rule 35**, *supra*, an executing court is empowered to deliver actual physical possession of the disputed property to the decree holder, and if the judgment debtor or any other person bound by the decree refuses to vacate the premises, the court can take necessary measures including their removal from the property to ensure compliance of the decree. In essence, this provision ensures that the decree holder obtains effective and enforceable possession, preventing any obstruction by the parties obligated to comply with the decree.

Order 21 Rule 36 *supra* governs the mode of executing a decree for possession of immovable property when the property is occupied by a tenant or any person not bound by the decree and in such case the court grants symbolic possession of the property by affixing a copy of the warrant at a prominent location of the property and publicly announcing the substance of the decree through customary means, such as, beat of drum with an aim to ensure that the occupant of the property is duly notified while the decree holder secures symbolic and constructive possession.

Order 21 Rule 99 *supra* addresses situations where resistance or obstruction is encountered while exercising decree for possession of immovable property and such obstruction or resistance may be caused by the judgment debtor, a person claiming rights through the judgment debtor, or even an independent third party including a tenant who was not a party to the suit and if the decree holder faces such resistance or obstruction, he can apply to the executing court seeking possession of the property.

Following the amendment of 1976 carried in Code, Sub-Rule (2) of Rule 99, empowers the executing court to adjudicate upon such claims in accordance with the provisions that follow specifically Order 21 Rule 101 *supra* mandates that all questions relating to the right, title, or interest in the disputed property arising in proceeding under Rule 97 or Rule 99 shall be decided by the executing court itself rather than through a separate suit. The aforesaid amendment of 1976, streamlined the process, ensuring that even objections raised by third parties in the process of execution of a decree are adjudicated thereby avoiding multiplicity of litigation.

6. It is significant to note here that the expression “any person” appearing in Order 21, Rule 97 (1) *supra*, has been employed to broaden the scope of executing court’s jurisdiction in

adjudicating claims arising from a resistance or obstruction to the delivery of possession, and by using this inclusive language, the provision encompasses all individuals opposing execution of a decree irrespective of whether they are bound by the decree and includes within its ambit tenants, persons claiming an independent right over the property or even strangers. Therefore, the executing court is empowered to examine and determine such claims within the execution proceedings, eliminating the need for institution of a separate litigation.

7. Before proceeding further in the matter, a reference to the unamended aforesaid provisions of Order 21 Rules 97 to 101 and 103 also becomes necessary and are as such reproduced here under:

"97.(1) Where the holder of a decree for the possession of immovable property or the purchaser of any such property sold in execution of a decree is resisted or obstructed by any person in obtaining possession of the property he may make an application to the Court complaining of such resistance or obstruction.

(2) The Court shall fix a day for investigating the matter and shall summon the party against whom the application is made to appear and answer the same.

98. Where the Court is satisfied that the resistance or obstruction was occasioned without any just cause by the judgment debtor or by some other person at his instigation, it shall direct that the applicant be put into possession of the property, and where the applicant is still resisted or obstructed in obtaining possession, the court may also, at the instance of the applicant, order the judgment-debtor, or any person acting at his instigation to be detained in the civil prison for a term which may extend to thirty days.

99. Where the court is satisfied that the resistance or obstruction was occasioned by any person (other than the judgment-debtor) claiming in good faith to be in possession of the property on his own account or on

account of some person other than the judgment-debtor, the Court shall make an order dismissing the application.

100. (1) Where any person other than the judgment-debtor is dispossessed of immovable property by the holder of a decree for the possession of such property or, where such property or where such property has been sold in execution of a decree, by purchaser thereof, he may make an application to the Court complaining of such dispossession.

(2) The Court shall fix a day for investigating the matter and shall summon the party against whom the application is made to answer the same.

101. Where the Court is satisfied that the applicant was in possession of the property on his own account or on account of some person other than the judgment-debtor, it shall direct that the applicant be put into possession of the property.

103. Any party not being a judgment-debtor against whom an order is made under rule 98, rule 99 and rule 101 may institute a suit to establish the right which he claims to the present possession of the property, but, subject to the result of such suit (if any), the order shall be conclusive."

It is significant to note here that Order 21 Rule 97 (1) *Supra* remains unchanged even after the amendment of 1976 in the Code. However, post-amendment all disputes relating to resistance or obstruction to possession under Rules 97 and 99 are required to be adjudicated by the executing court under Rule 101. Before the amendment of 1976, Rule 97 (2) provided that when a person obstructed the decree holder's possession, the executing court would issue summons to such a person and conduct an inquiry under Rule 98 and if the court found that the obstruction was without just cause, it would restore possession to the decree holder. Conversely, under Rule 99, if the obstruction was caused by a person claiming *bona fide* possession in his own right, the decree holder's application was liable to be dismissed.

8. Therefore, what emanates from above is that prior to amendment of 1976, a tenant or any person claiming an independent right in the property though not a party to the suit was entitled to have their claim adjudicated under Rule 99, thereby eliminating the necessity of filing a separate suit, however, after the amendment of 1976, if a tenant or any other person claiming an independent right in the property, resists the decree holder's possession, their objection must be adjudicated under Rule 97 read with Rule 101.

Before the amendment of 1976, such disputes were determined under Rule 97 read with Rule 99 and under the pre-amended law, it was only if an adverse order was passed against such person that they had to file a separate suit under Rule 103 to establish their right, however, post-amendment of 1976 such disputes are conclusively to be adjudicated by the court under Rule 101 without filing a separate suit.

9. Thus, it is manifest that whether under the pre-amendment or post-amendment law supra, if a tenant or any other person claiming an independent right resists the execution of a decree, their objection under Order 21 Rule 97, had to be adjudicated by the executing court itself.

Further Chapter (V) of the Code of Civil Procedure Amendment Act of 1976, which deals with the Repeal and saving clause and reads as under:

"97. Repeal and savings. (1).....

(2).....

(3) Save as otherwise provided in sub-section (2), the provision of the principal Act, as amended by this Act, shall apply to every suit, proceedings, appeal or application, pending at the commencement of this Act or instituted or filed after such commencement, notwithstanding the fact that the right, or cause of action, in pursuance of which such suit proceeding, appeal or application is instituted or filed, had been acquired or had accrued before such commencement."

10. Having regard to the aforesaid position of law inasmuch as the facts and circumstances of the case, the only inescapable conclusion that could be drawn by this Court is that every suit, proceedings, appeal or application instituted or filed after commencement of Amendment Act of 1976, supra is governed by said amended provision notwithstanding the fact that the right or cause of action in pursuance of which such suit, proceeding, appeal or application, instituted or filed, had accrued before such commencement of the Amendment Act of 1976.
11. For what has been observed, considered and analysed hereinabove, the Trial Court cannot be said to have faulted while passing the impugned judgment and decree which seemingly has been passed rightly and legally, thus not calling for any interference by this Court.
12. Resultantly the appeal fails and is accordingly **dismissed**.
13. Registry is directed to draw and frame a decree sheet accordingly.

(Javed Iqbal Wani)
Judge

Srinagar

28.02.2025.

"Ab. Rashid PS"

Whether the judgment/order is speaking;	Yes/No
Whether the judgement/order is reportable;	Yes/No