

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

Pronounced on: 15.12.2025

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CM(M) No.556/2025
CM No.8420/2025
Caveat No.3116/2025

KAFIL AHMAD MANGRAL & ANR.

...PETITIONER/APPELLANT(S)

Through: - Mr. Shahbaz Sikandar, Advocate.

Vs.

UNION OF INDIA & ORS.

...RESPONDENT(S)

Through: - Ms. Shagufta, Advocate-for R1.
Mr. Jahangir Iqbal Ganai, Sr. Advocate, with
Mr. Suhail Mehraj & Syed Darakshaw Irm, Advocates – for
caveator/respondent No.7

CORAM: HON'BLE Mr. JUSTICE SANJAY DHAR, JUDGE

ORDER(ORAL)

1) The petitioners, through the present petition, have challenged order dated 06.12.2025, passed by the learned Additional District Judge, Baramulla, whereby the appeal filed against order dated 21.06.2025, passed by the learned Sub Judge, Baramulla, in an application filed under Order 39 Rules 1 & 2 of CPC, has been dismissed.

2) Issue notice to respondents No.7 in the first instance. Mr. Suhail Mehraj and Ms. Darakhsaw, Advocates, who are on caveat, waive notice on behalf of respondent No.7.

3) Heard and considered.

4) It appears that the petitioners (hereinafter referred to as “the plaintiffs”) have instituted a suit for permanent prohibitory injunction before the Court of the learned Sub Judge, Baramulla (“the trial court”). In the said suit, the plaintiffs have pleaded that the Indian Oil Corporation Limited issued an advertisement notice for appointment of retail outlet dealers in the Jammu and Kashmir, to which the plaintiffs and defendant No.7 responded. It was contended by the plaintiffs that, as per the applicable guidelines, it was incumbent upon the persons holding agricultural land to get the land use changed regarding which requisite permission was to be obtained. It was further averred that defendant No.7, without following the prescribed procedure, obtained permission for change of land use in respect of land measuring 01 kanal and 10 marlas under Survey No.323 situated at Uranboha, Boniyar, Tehsil Uri, District Baramulla, for non-agricultural purpose (DC petrol pump). According to the plaintiffs, the said permission was obtained on fraudulent and false documents and the permission has been given only for DC petrol pump and not for rural retail outlet dealership. After obtaining permission, defendant No.7 leased out the land in question to defendant No.8 for setting up business unit petrol pump, though the permission has been granted for DC petrol pump only. According to the plaintiffs, plaintiff No.2 is having proprietary land in the same vicinity which is

more suitable than the land of defendants No.7 and 8. It has also been pleaded that plaintiff No.1 is already having a DC petrol pump near the land for which permission has been granted and the distance between the two points is less than one kilometer which is against the prescribed norms.

5) On the aforesaid grounds, the petitioners/plaintiffs challenged the permission for conversion of agricultural land to non-agricultural use and sought a mandatory injunction commanding the defendant Deputy Commissioner, Baramulla, to cancel the said permission with a further direction to process the case of plaintiff No.2 and grant necessary permission in her favour. A further decree of permanent prohibitory injunction restraining defendants No.7 and 8 from installing or opening the retail rural outlet dealership petrol pump near the DC point petrol pump of plaintiff No.1, has also been sought.

6) Along with the suit, the plaintiffs filed an application for grant of interim relief under Order XXXIX Rules 1 and 2 CPC.

7) Defendants No. 7 and 8 contested the suit by filing their written statement, wherein it has been submitted that they have followed all the procedures and guidelines and they have not done anything fraudulently. It has been contended that the permissions have been granted strictly in accordance with

the applicable rules and that the plaintiffs have no right to challenge the same.

8) The learned trial court, after hearing the parties and analyzing the pleadings, decided the interim application under XXXIX Rules 1 & 2 of CPC in terms of its order dated 21.06.2025. While doing so, the learned trial court declined to pass an interim injunction in favour of the plaintiffs on the ground that the plaintiffs had failed to establish a strong prima facie case in their favour.

9) The aforesaid order came to be challenged by the petitioners/plaintiffs through the medium of an appeal before the Court of Additional District Judge, Baramulla ("the Appellate Court"). The Appellate Court vide impugned judgment dated 06.12.2025, refused to interfere in the order passed by the trial court.

10) Aggrieved by the impugned orders, the petitioners/plaintiffs have invoked the supervisory jurisdiction of this Court under Article 227 of the Constitution of India, contending that the courts below failed to take into account the guidelines issued by the Ministry of Road, Transport and Highways for setting up of DC point and rural retail outlets. It has been contended that there is difference between DC point and the rural retail outlet as these are two different entities and serve two different purposes. According to the

petitioners, the DC point is for the storage of the petroleum products whereas rural retail outlet is used for sale of petroleum products .

11) Before going into merits of the contentions raised by the petitioners, it has to be borne in mind that this Court, while exercising its supervisory jurisdiction under Article 227 of the Constitution, is not to sit as a court of appeal against the orders of the inferior courts. It is only if there is a material irregularity in the said order or an inferior court has acted without jurisdiction or has failed to exercise its jurisdiction which has resulted in manifest injustice, that this Court would step in to exercise its power of superintendence. Mere error of law or even an error of fact cannot become a basis for exercising the power of superintendence unless it has resulted in failure of justice.

12) In the present case, the petitioners claim that the permission granted in favour of defendant Nos.7 and 8 for change of land use is based on fraudulent and fake documents. Neither the fraud nor the fake documents have been explained by the petitioners either in the present petition or in the plaint which they have filed before the learned trial court. Making sweeping and baseless allegations as to the veracity of the documents issued by the competent authorities would not make such documents unreliable. It is

for the petitioners, who have pleaded fraud, to give particulars of the alleged fraud and support these allegations with material. In the absence of the material particulars about alleged fraud and in the absence of any supporting material, the contention of the petitioners cannot be relied upon.

13) Similarly, the allegation of the petitioners that the contesting defendants have flouted the norms and the guidelines is omnibus in nature lacking in material particulars. The learned trial court as well as the learned Appellate Court have rightly refused to take note of these assertions of the petitioners.

14) So far as the contention of the petitioners that the permission granted in favour of the contesting defendants by the Deputy Commissioner, Baramulla, is in respect of DC point and not in respect of a retail outlet petrol pump is concerned, the same is also without any basis. If we have a look at the permission letter dated 16.09.2022 issued by Deputy Commissioner, Baramulla, in favour of respondent No.7 herein, it is clearly indicated therein that the permission is granted to the said respondent for establishment of a DC point petrol pump at Allahwari Uranboa Chandanwari Tehsil Boniyar District Baramulla. The other relevant departments have also furnished their No Objection Certificates in favour of respondent No.7 with regard to setting up of the DC point

petrol pump at the aforesaid location. Thus, the No Objection Certificate and the permission granted in favour of respondent No.7 is in respect of DC point petrol pump which would, prima facie, include operation of a retail petroleum outlet.

15) During the course of arguments, learned Senior Counsel for the contesting respondents has produced a copy of communication dated 07-07-2025, issued by the District Magistrate, Baramulla, wherein it has been categorically stated that the NOC is issued in favour of the company for establishment of a retail outlet at the aforementioned location on the basis of the reports/NOCs received from different departments. This communication clears all doubts with regard to nature of permission that has been granted in favour of respondent No.7. The contention of the petitioners in this regard is, therefore, without any substance.

16) In view of the above, I do not find any ground to interfere with the impugned order passed by the learned trial court as upheld by the learned Appellate Court. The petition lacks merit and is dismissed accordingly along with connected CM(s).

(SANJAY DHAR)
JUDGE

Srinagar
15.12.2025
“Bhat Altaf”

*Whether the **order** is reportable: **Yes/No***