

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

CM(M) No. 6/2022  
CM No. 489/2022

Raj Kumari

...Petitioner(s)

Through :- Mr. Dheeraj Sharma, Advocate.

V/s

Rajesh Kumar

...Respondent(s)

Through :- None.

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

**ORDER**

1. Through the medium of the instant petition filed under Article 227, the petitioner has thrown challenge to the order dated 08.12.2021 in terms whereof, the Incharge Police Station, Domana has been directed to ensure the implementation of the order dated 30.11.2021 passed in the application for interim relief temporarily restraining the non-applicant/petitioner herein from causing any sought of interference into the suit land.

2. According to the learned counsel for the petitioner, the plaintiff/respondent herein after obtaining interim order dated 30.11.2021 did not serve the same upon the defendant/petitioner herein but instead choose to seek implementation of the same upon filing of an application through Incharge Police Station, Domana and that the trial Court without issuing notice in the said application proceeded to pass the impugned order directing SHO, Police Station, Domana to ensure implementation of order dated 30.11.2021.

3. According to the learned counsel for the petitioner, under the garb of order dated 08.12.2021, the plaintiff/respondent herein intended to change the position of the subject matter of the suit on spot resulting into registration of an FIR against the plaintiff/respondent in the Police Station, Domana.

4. Be that as it may, fact remains that the trial Court has passed the impugned order without issuing notice and hearing the defendant/petitioner herein. The trial Court under law was required to issue a notice to the defendant/petitioner herein before passing an order for implementation of the interim order dated 30.11.2021. Since the impugned order has been passed in the pending matter without issuing any notice and hearing the defendant/petitioner herein as such, impugned order is not sustainable in law.

5. Having regard to the nature of controversy raised in the petition, coupled with the submissions made by the learned counsel for the defendant/petitioner herein, the petition is taken up for final disposal at this stage, without formally admitting the same and is disposed of in the following terms:-

“The impugned order dated 08.12.2021 is set aside however, the same shall not stand in the way of the plaintiff/respondent herein in seeking fresh order and in that event, the trial Court shall be free to pass fresh orders only after issuing notice and after hearing the petitioner/defendant”.

6. Writ petition is disposed of along with connected CM(s).

**(JAVED IQBAL WANI)**  
**JUDGE**

Jammu  
31.01.2022