

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM(M) No. 315/2022
CM No. 7619/2022

Mohammad Shaban Shaksaz

...Appellant/Petitioner(s)

Through: Mr. T.A.Lone, Adv.

Vs.

Ghulam Hassan Ganai & Ors.

...Respondent(s)

Through:

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

ORDER

1. Petitioner, through the medium of this petition under Article 227 of the Constitution of India, seeks issuance of appropriate order or direction in the attending facts and circumstances of the case after having been unsuccessful in the application for interim relief for temporary injunction in the suit filed by him titled *Mohammad Shaban Shaksaz Vs. Gh. Hassan Ganai & Ors.*, pending on the files of the court of learned Munsiff (District Mobile Magistrate Traffic) Anantnag.
2. Heard and considered.
3. Learned counsel for the petitioner submits that the petitioner had filed the case before the trial court seeking permanent prohibitory injunction against the respondents on the ground that the petitioner is the owner in possession of the land measuring 1 kanal 17 ½ marlas comprising of survey No. 906 situated at Seer Hamdan Anantnag

having been inherited by him from his father, who had purchased this land in the year 1984 by virtue of the sale-deed; that after the demise of the father of the petitioner the said land fell into his share on which he had constructed his residential house about 15 years back and is currently residing there with his family; that the respondents having neither any title nor any legal right over the said land, have been interfering with the peaceful possession of the petitioner. Along-with this suit the petitioner had also moved the application for ad-interim relief in terms of Order 39 Rule 1 & 2 of CPC.

4. It was alleged that the trial court initially granting interim relief in the year 2018 had vacated the same in the year 2021 after hearing both the parties. The petitioner having been aggrieved of the order passed by the trial court preferred an appeal before the court of Principal District Judge Anantnag, who vide order dated 29.11.2021 dismissed the appeal filed by the petitioner and both the courts vacated the ad-interim relief.
5. The contention of learned counsel that in case the interim direction is continued after its grant at the initial stage for some years, in normal course that cannot be vacated and both the courts below have fallen into error, hence this petition.
6. On perusal of the orders passed by the trial court as well as appellate court, this Court is of the opinion that both the courts have passed the orders strictly in accordance with the law not only after perusal of the documents but also after consideration of the report of the Court Commissioner appointed for spot inspection of the dispute with regard to the land between the parties.

7. Both the courts below have appreciated the rights of the parties on the touchstone of cardinal principles of the injunction like *prima facie*, balance of convenience and irreparable loss which are to be seen in equitable reliefs.
8. In the petition under Article 227 of the Constitution of India with regard to the supervisory jurisdiction of this Court over the courts subordinate to it, I am of the opinion that no case is made out by the petitioner for any interference invoking the writ jurisdiction of this Court, to the impugned orders.
9. Petition, is, thus found to be devoid of any merit and substance and is not sustainable. As a sequel to the aforesaid discussion, petition is dismissed in limini.

(M. A. CHOWDHARY)
JUDGE

Srinagar
31.12.2022
Muzammil. Q