

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

FAO No. 09/2020
CM No. 5619/2020

UT of J&K and Ors.

...Appellant/Petitioner(s)

Through: Mr. Rayees-u-Din Ganai, Dy. AG

Vs.

Mohammad Hussain Pattoo and Anr.

...Respondent(s)

Through: None

CORAM:

HON'BLE MR JUSTICE VINOD CHATTERJI KOUL, JUDGE

ORDER
28.02.2023

This instant appeal has been filed against the *ex parte* interim order dated 06.02.2020, passed by Principal District Judge, Anantnag, (for short the "Trial Court"), on an *ad interim* injunction application, keeping in abeyance operation of tender notice bearing No.28/PHED/Bijbehara of 2019-20, dated 23.01.2020, issued by non-applicant No.3 to the extent of serial No. 2.

A Bench of this Court vide order dated 26.11.2020, stayed the order impugned. The operative portion of the order is reproduced as under:-

"In the meantime, the impugned order dated 06.02.2020, passed by the Principal District and Sessions Judge, Anantnag, in a civil suit bearing File No. 08/Misc titled Mohammad Hussain Pattoo and Anr. Vs. UT of JK and Ors., shall stay till next date of hearing before the Bench. The appellants shall ensure completion of the tender process by or before the next date of hearing and apprise the Court about the result. The appellants as also the Chief Engineer, Jal Shakti (PHE), Department shall file affidavit, as directed well before the next date of hearing.

Call for the trial Court records also.

Registry to ensure that the records so called are obtained by asking Principal District and Sessions Judge, Anantnag, to send the same by special messenger/process server.

List on 11.12.2020.

Copy of the order be provided to Mr. Irfan Andleeb, learned Dy. AG, under the seal and signature of the Bench Secretary of this Court for compliance.

The civil suit, as stated, is pending before the Trial Court. It is submitted by counsel appearing for appellants that written statement as also the objections to the application, have already been filed.

The order impugned, on its plain reading, would reveal that it has been passed subject to objections and is till next date of hearing and is not absolute, as such. Appellant, instead of filing objections, has preferred instant appeal against interim order.

In such circumstances, it would be appropriate to direct the Trial Court to decide the application for grant of *ad interim* injunction on consideration of the objections, of course, in accordance with law. *Ordered, accordingly.*

The appellant shall cause appearance before the Trial Court on 08.03.2023. The application, if not already decided, shall be decided within one month by the Trial Court from the date, the respondents appeared in the matter. Till then the order passed by this Court on 26.11.2020, shall remain in operation, which shall automatically come to end after the aforesaid period.

Disposed of along with connected CM(s) on the above lines.

(VINOD CHATTERJI KOUL)
JUDGE

SRINAGAR

28.02.2023

“Mohammad Yasin Dar”