

S. No. 75
Supplementary

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) No. 1913/2023

CM No. 4472/2023

Rafiq Begum

.....Petitioner(s)

Through: Mr. M. Y Bhat, Sr. Adv.
with Mr. Prince Hamza, Adv.

V/s

UT of J&K and Ors.

..... Respondent(s)

Through:

CORAM:

Hon'ble Mr. Justice Sanjay Dhar, Judge.

ORDER

31.07.2023

1. The petitioner has invoked writ jurisdiction of this Court seeking a direction upon Tehsildar Kupwara to ensure implementation of the orders passed by the court of Civil Judge Junior Division/Munsiff Kupwara
2. Heard and considered
3. It appears that a civil suit has been filed by late husband of the petitioner against one Mst. Saja and others in which an application for grant of interim relief was made by the petitioner/plaintiff. Vide order dated 29.07.2022 passed by the learned trial court, the parties were directed to maintain status quo with regard to the suit property and thereafter, vide order dated 26.09.2022, the trial court directed the Tehsildar Kupwara to ensure implementation of the aforesaid order with the assistance of SHO Police Station, Kupwara. It was further directed that the parties in possession of their respective shares be permitted to harvest the crops out

of the suit property and the Tehsildar shall obtain proper Superdnama from the respective parties to the extent that they shall maintain the account of the benefits arising out of the same and shall deposit the same before the court if and when need arises.

4. Learned Senior Counsel appearing for the petitioner has submitted that the Tehsildar i.e, respondent No. 5 herein, instead of getting the order of the trial court implemented himself has delegated his powers to the Patwari concerned as a result of which, the order of the civil court has not been implemented in its letter and spirit.
5. The relief sought in this petition could have been sought by the petitioner by making an appropriate application before the learned trial court. Instead of doing so the petitioner has invoked extra ordinary writ jurisdiction of this Court, thereby avoiding to avail of the alternate remedy which is not only efficacious but also effective.
6. In view of the above, the writ petition is dismissed with a liberty to the petitioner to approach the trial court for seeking implementation of its orders in its letter and spirit. If and when such an application is made by the petitioner before the learned trial court, the same shall be disposed of by the trial court expeditiously by issuing appropriate direction to the Tehsildar concerned.
7. Disposed of as above along with connected CM.

(Sanjay Dhar)
Judge

SRINAGAR
31.07.2023
"Aasif"