

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

( Through Video Conferencing)

CR No. 42/2020  
CM No. 2479/2020  
CM No. 2480/2020

Daljit Singh

.....Appellant(s)

Through: Mr. Ajay Bakshi, Advocate.  
( On video conference/Voice Call from residence)

Vs.

Gurnaam Singh and others

.....Respondent(s)

Through:

**CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR**

**ORDER**

1. CM No. 2479/2020, for the reasons given, is allowed.
2. The petitioner invokes the power of superintendence of this Court vested by virtue of Article 227 of the Constitution of India for quashing order dated 03.06.2020 passed by City Judge, Jammu in a civil suit titled Daljit Singh v. Gurnam Singh and others, whereby the trial court has rejected the application of the petitioner seeking implementation of the interim order passed by the trial Court on 04.12.2018 through the agency of police.
3. Mr. Ajay Bakshi, learned counsel appearing for the petitioner submits that the subject land measuring 18 marlas comprised in Khasra No.98 old/ 263 new situate at Village Kotli Arjun Singh, R. S. Pura, Jammu, owned and possessed by the petitioner was agreed to be sold to the respondents in terms of agreement to sell dated 03.05.1989 but due to inability of the respondents to adhere to the terms and conditions of the agreement, no sale deed was executed nor was the

possession of the land ever delivered to the respondents. It is pleaded that since the respondents were taking the benefit of old-age of the petitioner and were threatening to take over the possession forcibly, the petitioner was constrained to file the suit before the trial Court, seeking inter alia declaration that the agreement to sell dated 03.05.1989 was null and void.

4. Learned counsel for the petitioner further submits that the trial Court, finding that the petitioner had a prima facie case in his favour, vide its order dated 04.12.2018 directed the parties to maintain status qua. It is the grievance of the petitioner that status qua with regard to his possession was maintained by the trial Court but the respondents, taking the benefit of the lockdown due to COVID-19, forcibly entered into the subject land and started collecting the construction material. The petitioner further submits that, with a view to prevent the respondents from changing the position and to ensure that the status qua order is implemented, an application was filed before the trial Court seeking enforcement of the order through the agency of police. It is this application which has been dismissed by the trial Court arbitrarily.

5. Considered the submissions made by the learned counsel for the petitioner.

6. Although it is not clear as to which of the parties was in actual physical possession on the date the suit was filed and order dated 04.12.2018 was passed but the fact remains that both the parties have been directed to maintain status qua. That being the position, whosoever is in possession, is at least obliged not to raised any construction or alienate the subject land in any manner. Mr. Bakshi very fairly stated that the respondents, by a show of force and for taking over the possession of the suit land, have collected building material thereon and in case they are not stopped from doing so, gross injustice would be done to the

petitioner. Prima facie I find substance in the submission of the learned counsel for the petitioner.

7. Notice to the respondents. Notice in CM No. 2480/2020 also.

8. In the meanwhile, subject to objections and till next date of hearing, the SHO Police Station R. S. Pura is directed to ensure that none of the parties raise any construction or change the position existing on spot, as on date.

9. List on 22.06.2020.

10. Mr. Bakshi shall submit legible copy of the agreement to sell and written statement filed before the Court below before the next date of hearing.

11. Copy of this order shall be sent o SHO Police Station R. S. Pura for compliance and report by the next date.

**Jammu,**  
**05.06.2020**  
Anil Raina



**( Sanjeev Kumar)**  
**Judge**