

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

WP(C) 898/2024

- | | |
|---|--------------------------------|
| 1. Nazir Ahmad Mir, Aged 64 Years
S/o Mohammed Yousuf Mir
R/o Lalbazar, Srinagar
Sole Proprietor of M/S Mir Electricals
Saraf Kadal, Srinagar | ...Petitioner(s)/Appellant(s). |
|---|--------------------------------|

Through: None

Vs.

- | | |
|---|-------------------|
| 1. Union Territory of Jammu and Kashmir
through Secretary to Government, Power
Development Department, Civil Secretariat,
Srinagar/Jammu
2. Kashmir Power Development Corporation
Limited, Bemina Srinagar through its
Managing Director
3. Chief Engineer, EM & RE Wing, Kashmir
Power Development Corporation Limited,
Srinagar
4. Superintending Engineer Operation and
Maintenance, KPDCL, Circle II, Srinagar,
(Previously EM & RC Circle II, Srinagar)
5. Executive Engineer Operation and
Maintenance, KPDCL, Division-3 rd ,
Shreenbagh, Srinagar. (Previously Electric
Maintenance Division Shreenbagh, Srinagar)
6. Assistant Executive Engineer, KPDCL,
Electric Sub Division Street Light, Srinagar
7. Divisional Commissioner, Kashmir | ...Respondent(s). |
|---|-------------------|

Through: Mr. Shahbaz Sikandar, AAG

CORAM: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

JUDGEMENT

17.09.2026

(ORAL)

1. None appears for the petitioner.
2. The petitioner, by way of the present writ petition filed under Article 226 of the Constitution of India, has sought the following relief(s):

“i) Issuance of appropriate writ or direction including one in the nature of mandamus commanding the respondents to make payment of the admitted outstanding amount along with interest 12% from the date the amount became due to the petitioner's firm till the same is released.

ii) Any other appropriate writ, order or direction which this Hon'ble Court deems just and proper in the attending facts and circumstances of the case.”

3. The respondents have filed their counter affidavit, wherein it has been pleaded that the petitioner had already instituted a recovery suit before the learned Additional District Judge, Bank Cases, designated as Commercial Court, Srinagar, in respect of the same subject matter and for substantially the same relief as sought in the instant writ petition. It has further been pleaded that the said fact has not been disclosed by the petitioner in the present petition, despite the fact that the respondents had already filed their written statement in the said proceedings and the matter is pending consideration before the learned Commercial Court.
4. Learned counsel for the respondents has placed on record a copy of the recovery suit as also the written statement filed therein. From a perusal of the prayer clause of the said suit, it appears that the petitioner has sought, inter alia, a decree for recovery of an amount of Rs.24,06,722/- in his favour and against the defendants, along with interest, besides a decree for attachment of the salary accounts of the defendants for realization of the contract amount along with interest.
5. Learned counsel for the respondents submits that once the petitioner had already availed the remedy before the competent Court in respect of the same claim, the filing of the instant writ petition, without disclosing the pendency of the said proceedings, amounts to abuse of the process of the Court. It is further submitted that the petitioner has not approached this Court with clean hands and has deliberately withheld a material fact which had a direct bearing upon the consideration of the present petition. On these grounds, dismissal of the writ petition has been sought.

6. Heard learned counsel for the respondents and perused the material available on record.
7. Upon perusal of the material placed on record, it is evident that prior to filing of the instant writ petition, the petitioner had already instituted a recovery suit before the learned Additional District Judge, Bank Cases, designated as Commercial Court, Srinagar, in respect of the same subject matter. The relief sought in the said suit substantially corresponds to the relief sought in the present writ petition i.e., recovery of the amount claimed by the petitioner along with interest.
8. What assumes significance is that the factum of pendency of the aforesaid recovery proceedings was not disclosed by the petitioner in the instant writ petition. Such disclosure was necessary, particularly when the petitioner was invoking the extraordinary and equitable jurisdiction of this Court under Article 226 of the Constitution of India.
9. This Court observes that a litigant invoking the extraordinary jurisdiction of the Court is under an obligation to place all material facts having a direct bearing upon the adjudication of the matter fairly and candidly before the Court. The pendency of a civil suit involving substantially the same subject matter and relief is undoubtedly a material fact, disclosure of which could have a direct bearing upon the exercise of writ jurisdiction.
10. The Hon'ble Supreme Court in case titled **The Auroville Foundation Vs Natasha Storey** reported as 2025 SCC Online SC 556, has authoritatively held that:

9. It is no more res integra that the Doctrine of "Clean hands and non-suppression of material facts" is applicable with full force to every proceedings before any judicial forum. The party invoking extraordinary jurisdiction of the High Court

under Article 226 of the Constitution of India must come with clean hands and disclose all correct and material facts in his Writ Petition. If it is brought to the notice of the Court that the petition has been guilty of suppression of material and relevant facts or has not come with clean hands, such conduct must be seriously viewed by the courts as the abuse of process of law and the petition must be dismissed on that ground alone without entering into the merits of the matter.”

11. Further this court in WP(C) 3035/2025 titled **Farooq Ahmad Shiekh vs Financial Commissioner (Revenue)** decided on 10.12.2025, has held as under:

“20. This Court cannot overlook the deliberate and willful suppression of material facts by the petitioners. The petitioners, having suffered dismissal before both the appellate and revisional authorities, approached this Court without disclosing the pendency of a civil suit on the same subject matter, nor did they bring to the notice of this Court the passing of the interim order dated 12.07.2024 by the Learned Civil Judge/Munsiff Sogam restraining the petitioner from interfering with or encroaching upon the pathway. The fact that the Civil Court's order was already in existence and known to the parties, and had also been referred to in the orders of both the appellate and revisional forums, shows the concealment was deliberate and wilful.

27. Accordingly, with a view to deprecate such practice of suppression of material facts, this Court imposes a cost of Rs.50,000/- on the petitioners, to be paid jointly by them, within a period of two weeks from the date of pronouncement of this order, which is to be deposited in the Advocates' Welfare Fund of this Court.”

12. Again, this Court in case titled as **Satpal Sharma vs. State of J&K and others** reported as 2024 SCC OnLine J&K 775, has held that:

"64. Thus, from the aforementioned enunciations of law, it has been settled that suppression of any material fact amounts to abuse of the process of law and playing fraud, which would

deprive an unscrupulous litigant from availing equitable or discretionary remedies under Article 226 of the Constitution of India. In the instant case, the petitioners, with a view to mislead this Court, have deliberately suppressed the fact that the demolition over the land of the petitioners was already carried out by the JDA before filing the instant case, which fact has been admitted by the petitioners in three separate c/w applications filed under Section 156(3) of Cr.P.C and also in the petition filed under Section 561-A of J&K Cr.P.C. by the petitioners. In these circumstances, the petitioners are not entitled to claim the discretionary remedy/relief available under Article 226 of the Constitution of India.

65. The petitioners have deliberately suppressed the fact that the demolition on their land had already been conducted on 30.09.2018 and the same was in their active knowledge, yet the petitioners with a view to mislead this Court twisted the facts and projected a contradictory stand in the instant petition which lead to the passing of status quo order in HIGH COURT OF JAMMU & KASHMIR AND LADAKH their favour. Thus, it is clear that the petitioners have abused the process of law and concealed material facts and accordingly, this Court is of the view that this is a fit case, where cost is required to be imposed on the petitioners for their conduct.

66. Accordingly, with a view to deprecate such practice of suppression of material facts, this Court imposes a cost of Rs. 50,000/- on the petitioners, to be paid jointly by them, within a period of two weeks from the date of pronouncement of this order, which is to be deposited in the Advocates' Welfare Fund of this Court. It is made clear that in case the costs imposed by this Court is not deposited within the aforesaid period, the Registry will list this petition after two weeks, only for this limited purpose for compliance

13. In the present case, the suppression cannot be treated as a mere omission or an insignificant lapse. The petitioner had already chosen to avail the remedy before the competent Commercial Court and, despite pendency of those proceedings, invoked the writ jurisdiction of this Court for substantially the same relief without bringing the said fact to the notice of the Court.

14. Permitting such parallel proceedings in respect of the same claim, particularly when the pendency of the earlier proceedings was not disclosed, would not only result in multiplicity of proceedings but would also amount to permitting the petitioner to seek adjudication of the same claim before two different forums. Such a course cannot be countenanced in exercise of the discretionary jurisdiction under Article 226 of the Constitution of India.

15. It is well settled that a litigant invoking the extraordinary jurisdiction of this Court must come with clean hands, a clear mind and complete candour, and is under an obligation to disclose all material facts having a bearing upon the adjudication of the lis. Suppression or concealment of material facts is not a mere irregularity, particularly where the suppressed fact has a direct bearing upon the exercise of jurisdiction by the Court. The duty of disclosure extends not only to facts which support the case of a party but equally to those which are adverse to its claim. An attempt to mislead the Court by withholding such material information strikes at the very root of the administration of justice and cannot be countenanced.

16. A litigant who approaches the Court with suppression of material facts cannot claim equitable or discretionary relief as a matter of right. The writ jurisdiction cannot be permitted to be invoked as an instrument of abuse or to secure an unfair advantage by withholding material information from the Court. In the facts and circumstances of the present case, this Court deems it proper to decline the relief prayed by the petitioner by imposing costs so as to deprecate such conduct and to ensure that the process of the Court is not undermined by suppression of material facts.

17. In the aforesaid circumstances, this Court is of the considered view that the present petition amounts to an abuse of the process of the Court and is, therefore, liable to be dismissed with costs. This Court, however, makes it clear that no opinion is being expressed on the merits of the claim pending before the learned Commercial Court.

18. Accordingly, the present petition is **dismissed** with costs quantified at Rs.10,000/- (Rupees Ten Thousand only), to be deposited by the petitioner with the Registry of this Court within a period of two weeks from today.

19.Registry shall list the matter on **05.10.2026**, for a limited purpose, in the event the aforesaid costs are not deposited within the stipulated period.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:
17-09-2026
Mubashir

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No

