

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

LPA No. 104/2023 in

WP (C) No. 1153/2023

Lateef Ahmad Bhat.

...Applicant(s)/Appellant(s)

Through Mr. M. Mubashir Gatoo, Advocate

Vs.

UT of J&K & Ors.

...Respondent(s)

Through Mr. Alla-ud-din Ganai, AAG with
Ms. Shaila Shamim, Assisting counsel.
Mr. Sumir Pandita, Advocate (R-5-8)

CORAM:

HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.
HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE.

O R D E R
30.12.2024

1. This intra-court appeal is directed against the order dated 15th May, 2023, passed by the learned Writ Court in WP (C) No. 1153/2023 titled "*Mukhan Lal & Ors vs. U.T of J&K & Ors*". whereby, the learned writ Court has directed the District Magistrate, Shopian to proceed with the application/representation submitted by the private respondents as per the provisions of *the Jammu & Kashmir Migrant Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act, 1997*. It is contended by the appellant that the father of the private respondents had sold the land measuring 5 marlas comprising survey No. 266/175 and land measuring 7 marlas comprising survey No. 267/175 situated at village

Ramnihal, Shopian, and further that demarcation was conducted earlier and the land measuring 16 marlas was found to be in possession of Mohammad Lateef Bhat-appellant herein and it was further mentioned in the report dated 7th March, 2022 that out of 16 marlas, 12 marlas of land is in occupation of Mohammad Lateef Bhat by virtue of a notarized agreement.

2. Learned counsel for the appellant has submitted that the private respondents had concealed the factum of execution of the agreement by their deceased father and by concealing this material fact, the writ petition was filed which was disposed of vide order, impugned in the present appeal.
3. Mr. Sumir Pandita, learned counsel for the private respondents has submitted that the document has been manipulated by the appellant and further that the appellant cannot claim any right on the basis of an unregistered agreement to sell.
4. Perusal of the impugned order reveals that the District Magistrate, Shopian, has been directed to decide the application/representation filed by the private respondents, strictly in terms of the provisions of the Act, *supra*. In case the appellant has any right or interest in the land which is in his possession, the appellant can put forth his case before the District Magistrate, Shopian and further the District Magistrate, Shopian can consider the same and proceed in accordance with law.

5. Accordingly, we do not find any reason to show any indulgence, however, permit the appellant to put forth his case before the District Magistrate, Shopian and it is expected that the District Magistrate, Shopian shall pass an order after affording due opportunity of hearing to all the interested parties.
6. **Disposed of** along with connected CM(s).

(MOHD YOUSUF WANI)
JUDGE

(RAJNESH OSWAL)
JUDGE

SRINAGAR:
30.12.2024
"Abdul Rashid"

