

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

WP(C) No. 2769/2025
CM No. 6355/2025

Dev Raj

.....Petitioner

Through: Mr. F.S. Butt, Advocate

Vs

UT of J&K & Anr.

.....Respondents

Through: Ms. Chetna Manhas, Assisting Counsel
to Mrs. Monika Kohli, Sr. AAG

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE
ORDER
(06.10.2025)

- 01.** The petitioner-Dev Raj claims to be owner in possession of a piece of land measuring 10 Marlas falling under khasra No. 45 situated at village Bishal Jattan, Tehsil and District Udhampur.
- 02.** The petitioner is stated to have acquired ownership of the land in question in terms of Government Order S-432 of 1966 dated 03.06.1966 in which one of the conditions incorporated was that owners of such land shall not alienate the same without prior permission of the Government and that the land shall be used only for the agricultural purpose. The petitioner in support of his contention that there are no fetters upon his right to alienate the aforesaid land, is relying upon the ratio laid

down by this Court in the cases of **Mohammad Akbar Shah and ors. Vs. State and ors.; AIR 2017 J&K 14** as also the ratio laid down by this Court in the case of **Angrez Singh Vs. UT of J&K and ors; AIR 2023 J&K 533.**

- 03.** Learned counsel for the respondents while contesting this writ petition has stated that one of the conditions attached to Government Order No. S-432 of 1966 is that grantee has to use the land only for agricultural purposes and the said grantee is not entitled to alienate it without previous permission of the Government. Thus, the revenue extract for the purpose of alienation of the land owned and possessed by the petitioner cannot be issued in his favour.
- 04.** I have heard learned counsel for the parties and perused record of the case.
- 05.** The question that is required to be determined in this case is that as to whether the action of the respondent No. 2-Tehsildar, Udhampur, in refusing to issue revenue extracts (Fard) for the purpose of alienation of land owned and possessed by the petitioner is sustainable in law. It is not in dispute that the land in respect of which the petitioner is seeking copy of revenue extract for the purpose of alienation, has been acquired by him in terms of Government Order No. S-432 of 1966 dated 03.06.1966 in which a condition was imposed that

grantees of such land shall not be entitled to alienate the same without the permission of the Government. The question as to whether the land acquired by a person in terms of the Government Order No. S-432 of 1966 dated 03.06.1966 can be alienated by the owner thereof is no longer res integra and this Court in the case of Mohammad Akbar Shah's case (supra) has set the controversy at rest by holding that a person who has been conferred the proprietary rights in terms of Order No. S-432 of 1966 is not precluded from alienating the said land. The relevant portion of the judgment is reproduced as under:-

“10. After the petitioner No.1 was conferred with proprietary rights over the land in terms of order of 1966, the said order outlived its life to the extent of petitioner No.1. His rights thereafter were governed by the Transfer of Property Act, Land Alienation Act and Agrarian Reforms Act. The Act of 1976, in view of the mandate contained in its section 31, did forbid alienation of land defined under it. However, section 31 of the Act of 1976 was omitted in the year 1997. The express provision, forbidding sale of the land, defined in the Act of 1976, was, thus, removed by the Statute itself. The condition contained at paragraph 04 of the order of 1966 for seeking permission for alienation of land, in view of the provisions of the Act of 1976, more particularly, section 42(1), thus, has ceased to be in operation. Even otherwise, attaching the condition of seeking permission for alienation of land in respect of which, proprietary

rights stands conferred, is against the concept of exercising complete dominion over the land, of which proprietary rights were conferred on petitioner No.1. After becoming absolute owner of the land, restriction could not be imposed for its alienation. Such a condition could be imposed only by an act of legislation. Initially a like condition was imposed in terms of [section 31](#) of the Act of 1976 but the said provision was, subsequently, omitted. The land was permitted to be alienated to a limited extent for the purpose of construction of residential house.

11. It appears that the condition of seeking previous permission from the Government for alienation of land, in respect of which, ownership rights were conferred by the government as the person was holding the land as tenant under the State, was done with the purpose to ensure that the benefit of land accrues to the grantee and he uses it for agriculture purposes.

12. In earlier times, agriculture activity was the backbone of economy of the State. The land, which was given for agriculture purposes to a State subject, was to ameliorate the sufferings of such person/his family. Now the times have changed. The agriculture activity is no more the main economic activity of the State. The condition of seeking previous permission of the Government for alienation of land, which was given for agriculture purposes, in terms of paragraph 04 of the order of 1966, is rendered otiose and will not effect right of the owner of land to alienate the same provided other statutory requirements are fulfilled for such alienation.”

06. From the foregoing analysis of the legal position, it is clear that this Court has held that condition of seeking previous permission of the Government for alienation of land which was allotted for agricultural purposes in terms of order No. S-432 of 66 dated 03.06.1966 has been declared as otiose and the same, therefore, would not affect right of the owner of the land to alienate the same.
07. Learned counsel for the respondents has submitted that the respondents are proposing to assail judgments passed by this Court on the strength of the ratio laid down in Mohammad Akbar Shah's case (supra) and as such, hearing of the present case may be deferred.
08. I am afraid the request of learned counsel for the respondents cannot be acceded to for the reason that the ratio laid down in Mohammad Akbar Shah's case (supra) has been consistently followed by this Court in all subsequent decisions on the issue. During all these years, the respondents have not assailed the said judgment. Learned counsel appearing for the respondents has not produced any order of any superior forum whereby any judgment passed by this Court on the basis of ratio laid down in Mohammad Akbar Shah's case (supra) has been stayed or set aside. Therefore, the request of learned counsel for the respondents cannot be acceded to.

09. In view of the ratio laid down by this Court in Mohammad Akbar Shah's case (supra), it is not open to the respondents to refuse the issuance of revenue extract in respect of the land owned and possessed by the petitioner on the ground that the same has been acquired by him in terms of Government Order No. S-432 of 66 dated 03.06.1966.

10. Accordingly, the writ petition is allowed and a direction is issued to the respondent No. 2-Tehsildar, Udhampur, to furnish revenue extracts/Fard Intekhab in respect of the land owned and possessed by the petitioner for the purpose of its proposed alienation.

11. *Disposed of.*



**(SANJAY DHAR)
JUDGE**

**JAMMU
06.10.2025
SUNIL**

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