

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM No. 906/2025 in
RP No. 14/2025
CM No. 907/2025

M/S Ghulam Hassan Shah

... Petitioner(s)

Through: -

Mr F. A. Wani, Advocate.

V/s

Union Territory of J&K and Ors.

... Respondent(s)

Through: -

Mr Shafqat Nazir, Advocate.

CORAM:

Hon'ble Mr Justice Sanjeev Kumar, Judge

Hon'ble Mr Justice Sanjay Parihar, Judge

(ORDER)

15.07.2025

CM No. 906/2025:

01. This is an application filed by the Applicant/ Petitioner seeking condonation of delay in filing RP No. 14/2025.

02. The Application, for the reasons stated therein, is **allowed** and the delay in filing the Review Petition is condoned.

03. CM No. 906/2025 shall stand **disposed** of on the above terms.

RP No. 14/2025:

04. Through the medium of this Review Petition, the Petitioner is seeking to recall an Order and Judgment dated 29th of November, 2024 passed by this Court in WP (C) No. 1520/2024 titled '**M/S Ghulam Hassan Shah v. Union Territory of J&K and Ors.**'.

05. The review of the Judgment aforesaid is sought on the grounds which we set out below:

“a. That the nature of the land at the time of mortgaging it to the respondent banker was purely agricultural

and continues to be so as on date, as there is no construction caused either of the double storied house else the business unit pre and post availing of financial assistance, therefore, the proposition of the law as stated in the judgment is misplaced in the given circumstances of the case. In as much as the agricultural activity in the said land is in currency, therefore cumulatively the SARFAESI proceedings cannot be had against the petitioner the aspect that years for appreciation; and

b. That the petitioner craves leave to table more available in law at the time of the arguments.”

06. Having heard the learned Counsel for the parties and perused the material on record, the only ground on which the Judgment is sought to be reviewed is that the secured asset is purely agricultural land and, therefore, cannot be made subject matter of attachment and sale under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (“the Act of 2002”).

07. We have gone through the Judgment passed by the Division Bench on 29th of November, 2024 and we find that the Division Bench was aware with regard to the nature of the land. Paragraph No.5 of the Judgment deals with this aspect of the matter.

08. Otherwise also, the Petitioner having availed the loan on the basis of documents of land submitted by him cannot be permitted to turn around and say that he cannot be made to repay the loan because the property which he mortgaged was agricultural land and is not amenable to attachment and sale under the provisions of the Act of 2002. If we were to uphold this contention of the learned Counsel for the Petitioner, it may call for registration of an FIR against the Petitioner for having misled the Bank into granting him the loan.

09. It seems that the Petitioner, right from very beginning, was in knowledge of the fact that the land which he mortgaged with the Bank might not be amenable to attachment and sale by the Bank in the event he makes a default of the payment and, therefore, deliberately committed an act which is, *prima facie*, tantamount to commission of offence of cheating.

10. Without saying much on this aspect of the matter, we only hold this Review Petition grossly misconceived and the same is, accordingly, **dismissed** with costs of Rs. 50,000/- (rupees fifty thousand only) to be deposited by the Petitioner before the Registry within a period of two weeks. In case of failure to deposit the costs within the stipulated time on the part of the Petitioner, the Registry shall frame a *Robkar* and place the same before this Court after two weeks.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

SRINAGAR
July 15th, 2025
"TAHIR"

