

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

WP(C) No.430/2021 c/w WP(C) No.64/2021 and WP(C) No.125/2021

*Reserved on:04.12.2025.*

*Pronounced on:11.12.2025*

*Uploaded on:11.12.2025*

*Whether the operative part or  
Full judgment is pronounced: (FULL)*

**WP(C) No.430/2021**

1. Rifat Parveen Gillani (aged 61 years)  
W/o Viqar ul Mulk Nazki  
R/o Shivpora, Srinagar.
2. Syed Masrat Andarbi (aged 51 years)  
W/o Syed Naseer Hyder Gillani  
R/o Sheikhpura Budgam, Kashmir.
3. Arooj Hyder Gillani (aged 21 years)  
D/o Naseer Hyder Gillani  
R/o Sheikhpura, Budgam, Kashmir.

Through: Ms. Muzamil Jabeen, Advocate.

Vs.

1. Union Territory of J&K through Commissioner Secretary to Govt.  
Revenue Department, Civil Secretariat Srinagar/Jammu.
2. Inspector General of Registration, Union Territory of J&K,  
Srinagar.
3. Deputy Commissioner Srinagar.
4. Sub Registrar (A.C Nazool) Srinagar.

Through: Mr. Faheem Nissar Shah, GA.

**WP(C) No.64/2021**

1. Fatima, age 65 years.  
W/o Mohammad Yousuf Mugloo,  
R/o General Bagh, Gorpora. Rainawari, Sriangar.
2. Salima Age 47 years  
D/o Ghulam Hassan  
R/o Gulshan Ali Shalimar Srinagar.
3. Ali Mohammad Malla, age 64  
S/o Abdul Samad Malla.  
R/o Friends Colony Shalimar

4. Gulshan Akhter, 24 years  
W/o Naseer Ahmed Ganie  
R/o Chek Dara Srinagar.
5. Nusrat Rafiq, age 25 years  
D/o Mohammad Rafiq Ganie  
R/o Chek Dara Srinagar.
6. Shubnam Age 40 years  
W/o Noor ud Din Bhat  
R/o Habba Kadal Sriangar.

Through: Ms. Muzamil Jabeen, Advocate.

Vs.

1. Union Territory of J&K through Secretary to Government Revenue Department Civil Secretariat Srinagar.
2. Inspector General of Registration, UT of J&K Srinagar.
3. Deputy Commissioner Srinagar, UT of J&K Srinagar.
4. Sub Registrar (Under Registration Act) Srinagar.
5. Sub Registrar (East) Under Registration Act) Srinagar.

Through: Faheem Nissar Shah, GA.

**WP(C) No.125/2021**

Shabnam Nazir, Aged 40 years  
W/o Nazir Ahmad Khan  
R/o Sheikh Hamza Colony Eidgah, Srinagar.

Through: Ms. Muzamil Jabeen, Advocate.

Vs.

1. Government of J&K through Commissioner/Secretary to Govt. Revenue Department, Civil Sectt. Srinagar/Jammu.
2. Financial Commissioner (Rev) Govt. of J&K, Srinagar/Jammu.
3. District Collector, Chairman District Valuation Board, Srinagar.
4. Inspector General of Registration, J&K Jammu/Srinagar.
5. District Registrar, Srinagar.
6. Sub Registrar, East/West/North/South, Srinagar.

Through: Mr. Faheem Nissar Shah, GA.

**CORAM:**

**HON'BLE MR JUSTICE RAJESH SEKHRI, JUDGE**

**JUDGEMENT**

1. The petitioners, being similarly circumstanced with common grievances and common grounds to urge and entitled to identical reliefs on identical facts, have invoked writ jurisdiction of this court. Since a common question of law is involved, in aforecaptioned batch of petitions, they are being disposed of by virtue of this common judgement.

2. Before a closer look at the grounds urged in the petitions, it shall be expedient to have an overview of some uncontroverted facts.

3. As the factual matrix would unfurl, the petitioners purchased respective landed properties, after procuring the revenue extracts from concerned revenue officials, purchased stamp papers, executed respective sale deeds and submitted the documents before Sub Registrar, Srinagar on NDGRS Portal in December 2020 or before for registration. However, respondent No.4-Sub Registrar, Srinagar refused to register the sale deeds, in view of Circular dated 30.12.2020, issued by respondent No.2-Inspector General of Registration, providing for payment of stamp duty at enhanced rate w.e.f. 01.01.2021. This circular has been called into question by the petitioners on various grounds urged in the memo of petitions.

4. It is contention of the petitioners that since sale deeds were executed and presented for registration, within the statutory period of four months, before the issuance of impugned circular, and it was the registering authority-respondent No. 4, who had fixed the slot, subject to his availability, for registration of the documents, refusal on his part to register

the documents on the ground of non-payment of stamp duty at the enhanced rate, in terms of impugned circular has no legal sustainability.

**Stand of the respondents.**

5. The respondents primarily are affront with the contention that government, in terms of Section 27(A) of the Jammu and Kashmir Stamp Act, 1977, is vested with the jurisdiction to periodically revise the market value guidelines of the lands, buildings and various kinds of interests in the immovable properties situated in the State for the purpose of determining the duty chargeable at the time of registration. According to the respondents the impugned circular is clarificatory in nature, otherwise the provisions of parent act are explicitly clear on the point and petitioners are required to pay stamp duty at the time of registration of the documents. According to the respondents the date of execution of document does not determine the rate at which stamp duty is to be affixed and the duty is chargeable on the date document is actually registered by the registering authority.

6. Heard and considered.

7. True, it is that Government is vested with the jurisdiction to periodically revise the market value of land, buildings and interests in immovable properties for the purpose of determining the duty chargeable at the time of registration, but the stamp duty chargeable on a document, is to be levied at the time of its execution, as laid in Section 17 of the Stamp Act, 1977, [“the Stamp Act”], which for the ease of reference is extracted here under: -

**17. Instruments executed in India. - All instruments chargeable with duty and executed by any person in India shall be stamped before or at the time of execution.**

(Emphasis supplied)

**8.** Embarking on the reason that documents are not duly stamped, learned Sub Registrar has failed to appreciate the provisions envisaged in the stamp Act, particularly by refraining to appreciate the expression “chargeable”, defined in Section 2(6) of the Stamp Act, which reads as below: -

**(6) Chargeable---“chargeable” means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act, and, as applied to any other instrument, chargeable under the law in force in [India] when such instrument was executed or, where several persons executed the instrument at different times, first executed;**

(Emphasised)

**9.** Further, section 33(2) of the Stamp Act, dealing with examination and impounding of instruments, implies the requirement in more precise and elucidate terms, mandating the stamping of instrument with requisite stamp duty, at the time of its execution, which lays thus:-

**(2) For that purpose every such person shall examine every instrument, so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in [India] when such instrument was executed or first executed;**

(Emphasis supplied)

**10.** It becomes immaculately clear from a conjoint reading of the aforesaid provisions that stamp duty chargeable on an instrument, is to be annexed at the time of execution and not thereafter at any stage, as such, the instruments presented by the petitioners for registration, were chargeable with the stamp duty in terms of circulars/Government orders in vogue at the time of their execution and not in terms of the impugned circular dated 30.12.2020.

**11.** Now, the question which requires determination is whether documents in question, after their execution, were presented for registration within the prescribed period of limitation or not. Section 23 of the Registration Act, 1977, mandates limitation period of presentation of a document for registration, which reads as under: -

**23. Time for presenting documents. -Subject to the provisions contained in sections 24, 25 and 26, no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution:**

**12.** Section 23 (supra) accentuates the time period within which a document is to be presented for registration and the period slot for such purpose is unambiguously defined putting every inference to rest. The documents in question, verily have been presented within the statutory period in the month of December itself, immediately after their execution.

**13.** If the provisions of Section 17, 2(6), 32(2) of the Stamp Act are read in conjunction with Section 23 of the Registration Act, it is clear that chargeable event is the execution of instrument. In other words, the crucial date for charge of the stamp duty is the date of execution of instrument and not the date of presentation or registration.

**14.** Be that as it may, it is axiomatic from a plain reading and tone and tenor of the impugned circular, issued by Inspector General of Registration on 30.12.2020 that it is prospective in operation, w.e.f. 01.01.2021. It is otherwise settled in law that any Act or notification for that matter, has to be observed and complied with prospectively, unless it is unambiguously defined to possess retrospective effect.

**15.** Fixation of a particular slot by the registering authority, subject to his convenience and availability cannot be a ground to insist for the payment of enhanced stamp duty. Insistence of the respondent-Sub Registrar in the present case, on the payment of stamp duty at enhanced rates, in terms of the impugned circular, as such, is illegal.

**16.** Having regard to the preceding discussion, impugned orders of refusal, passed by the respondent -Sub Registrar are manifestly erroneous and liable to be set aside. Same are, accordingly, set aside. He is directed to register the documents in the light of the terms of law, discussed hereinabove, within a period of one week, from the date a copy of this order is made available.

**17.** Appeals are accordingly disposed of.

**18.** Let a copy of this judgement be circulated amongst all the Registrars and Sub-Registrars of the Union Territories of J&K and Ladakh.

**(RAJESH SEKHRI)  
JUDGE**

**SRINAGAR**

11.12.2025

*Ishaq*

*Whether the judgement is speaking? Yes*

*Whether approved for reporting? Yes*