

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

WP (C) No. 1310/2026

Swarna Devi

.....Applicant(s)/Petitioner(s)

Through :- Ms. Shamima Jan, Advocate

v/s

UT of J&K and Others

.....Respondent(s)

Through :- Ms. Monika Kohli, Sr. AAG

CORAM: HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

ORDER
11.05.2026

1. By this petition, the petitioner herein has challenged order dated 21.04.2026 passed by respondent no. 3, whereby the application filed by the petitioner for issuance of revenue extract/fard intikhab of the land measuring 25 marlas falling under khasra Nos. 867, 868, 869, 870, 874, 875 khata no. 900/722 khewat no. 236/202 min, 6 min, 7 min, 31 min, 68 min situated at Village Loundana Tehsil and District Udhampur, has been rejected. The petitioner has also sought a direction upon the respondents to issue revenue extract/fard intikhab of the land aforementioned in favour of the petitioner.
2. It is stated that the petitioner has acquired ownership right over the land in question in terms of Government Order Nos. LB-7/C of 1958 and LB-202 of 2007, wherein one of the conditions imposed was that the grantee shall use it for agricultural purpose only and shall not be entitled to alienate the same without the previous permission of the Government.

3. Placing reliance on a judgment of this Court in **Mohd. Akbar Shah v. State of Jammu and Kashmir and others, 2017 AIR 14**, learned counsel for the petitioner would argue that permission for alienation of land, which was given for agriculture purpose, is rendered otiose and will not affect the right of owner of the land to alienate the same, provided other statutory requirements are fulfilled. It is further stated that the judgment in Mohd. Akbar Shah's case is governing the field as the same was never assailed. Relevant portion of Mohd. Akbar Shah is reproduced hereunder:

10. The question, which begs for consideration, is whether it is still a requirement of law to seek permission from the Government for alienation of land. Petitioner No.1 was declared to be Tenant-at-Will under the State in terms of order of 1958. In view of order on Mutation No. 1894 (432-S), and the order of 1966, the ownership rights were conferred on petitioner No.1. The petitioner No.1, thus, got complete domain over the land, which was transferred to him in terms of order of 1966. The orders of 1958 and 1966 were issued under Jammu and Kashmir Land Revenue Act, Samvat, 1996. The order of 1966 was based on Council Decision No. 619 of 04th April, 1966. In terms of sub section 1 of section 60 of the Tenancy Act, an occupancy tenant has been authorized to transfer his right of occupancy by Sale, Mortgage or Gift. No permission for such transfer is required in case of occupancy tenant holding the land directly under the State. Petitioner No.1 was holding the tenancy rights directly under the State. This provision of law also support the view taken in this case.

11. 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.

12. 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.

13. 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.”

4. Perusal of the above extract would show that once a person has been conferred the proprietary rights with regard to the land, he is not precluded from alienating the said land. In Mohd. Akbar Shah, the Court was dealing with a similar condition as was incorporated in

LB-202 of 2007, in terms of which previous permission of the Government is required to alienate the land.

5. The ratio laid down in Mohammad Akabr Shah's case (supra) has been relied upon by this court in **Nar Singh v. UT of J&K and others, 2024-JKLHC-JMU:3327** and **Dev Raj v. UT of J&K and another, WP(C) No.2769/2025** decided on 06.10.2025. It has been held that 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 same has been acquired in terms of a particular government order.
6. In view of the above, it becomes evident that the issue raised in this petition is no longer *res integra*, as the same has already been set at rest by this Court in Mohd. Akbar Shah's, which is stated to have remained unchallenged.
7. Be that as it may, with the consent of learned counsel for the parties, instant petition is disposed of by quashing order dated 21.04.2026 passed by respondent no. 3, whereby application of the petitioner seeking fard/revenue extract in respect of the land aforementioned, was rejected and the respondents are directed to issue Fard Intkhab in favour of the petitioner within a period of four weeks from the date copy of this order is made available to respondent no. 2, provided there is no other legal impediment therefor.

(Moksha Khajuria Kazmi)
Judge

JAMMU
11.05.2026
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Whether order is reportable: Yes/No