Sr. No. 167
Supp. List-I

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

WP(C) No. 3025/2024

Amit Kumar and another …. Petitioner/Appellant(s)

Through:- Mr. Dheeraj Sharma, Advocate.

V/s

UT of J&K and another …..Respondent(s)

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

CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE

ORDER

23.12.2024

01. Notice.

02. Ms. Chetna Manhas, Assisting counsel to Mrs. Monika Kohli, learned Sr. AAG, accepts notice on behalf of respondents.

03. Petitioners in this petition have challenged the impugned order dated 05.07.2022 (Annexure-I) passed by respondent No. 2-Tehsildar, Bari Brahmna, District Samba, whereby the application No. 22802106202220003504, filed by the petitioners through online mode for the issuance of a revenue extract for the sale of their land measuring 11 marlas, bearing Khasra No. 50, Khata No. 163, Khewat No. 7, situated at Village Rajpur Koular, has been rejected.

04. The contention of the petitioners herein is that they are the owners of land measuring 11 Marlas bearing Khasra No. 50, Khata No. 163, Khewat No. 7, situated at Village Rajpur Koular. The petitioners intend to alienate their land and, accordingly, applied for the requisite revenue permission.

However, respondent No. 2-Tehsildar, Bari Brahmna, refused to grant permission, citing that the land proposed to be alienated is governed by Government Order No. S-432 of 1966 dated 03.06.1966, which prohibits the transfer of ownership rights without the prior requisite permission of the Government.

05. It is submitted that after becoming aware of the rejection of their application online, the petitioners personally approached respondent No. 2 and made oral submissions, seeking consideration of their case for the issuance of the revenue extract in light of the judgments passed by this Court in the cases titled *Mohd. Akbar Shah & Ors. vs. State & Ors.*, decided on 31.05.2016, and *Angrez Singh vs. UT of J&K and Others*, decided on 03.07.2023, as well as the judgment in *Puran Chand and others vs. UT of J&K and another,* bearing WP(C) No. 3249/2023.The petitioners submitted that in these judgments, similar issues were considered, and it was held that there is no prohibition on the sale of such land, as Condition No. 4 of Government Order No. S-432 of 1966 dated 03.06.1966 has been declared/rendered otiose and does not affect the right of the owners of the land to alienate the same, provided other statutory requirements are fulfilled for such alienation.

06. Further, this Court in the case *Angrez Singh vs. UT of J&K and Others*, WP(C) No. 1657/2023, while relying on *Mohammad Akbar Shah's* case (supra), held as under:

> "The judgment, in very clear and categoric terms, holds that the condition no. 4 of the Government Order no. S-432 of 1966 dated 03.06.1966 is rendered otiose and is not to effect the right of the owner of the land to alienate the same provided other statutory requirements

> are fulfilled for such alienation. Thus, it was not available for the Tehsildar Marheen to seek any clarification with respect to the similarity of the case of the petitioner vis-à-vis that of the person who was the petitioner in OWP no. 982/2015."

07. The judgment of this Court in OWP No. 982/2015, to the extent it holds that Condition No. 4 of Government Order No. S-432 of 1966 dated 03.06.1966 is a judgment in rem and is to be implemented by all concerned, including the Tehsildar, Bari Brahmana.

08. It is urged by the learned counsel for the petitioners that the issue involved in the present petition has already been settled in the judgments cited hereinabove.

09. This writ petition can be disposed of at this stage by taking due cognizance of the position of law settled by this Court in its judgment dated 31.05.2016, passed in OWP No. 982/2015, titled *Mohammad Akbar Shah and Others vs. State and Others*, wherein this Court held that Condition No. 4 of Government Order No. S-432 of 1966, dated 03.06.1966, is otiose.

10. Keeping in view the aforesaid facts and circumstances, as well as the law, this writ petition is disposed of with a direction to the Tehsildar, Bari Brahmana, to issue the requisite revenue documents in favor of the petitioners, subject to the condition that the petitioners do not suffer from any other legal disability or disqualification preventing them from seeking or obtaining the requisite revenue *Fard*/record concerning the proposed alienation of the land intended by them.

11. Let the needful compliance be done by the Tehsildar, Bari Brahmana, District Samba, at his end within a period of one month from the date of receipt of the certified copy of this order.

12. Disposed of accordingly.

(Sindhu Sharma)
Judge

Jammu:
23.12.2024
Michal Sharma/PS



Michal Sharma
I attest to the accuracy and
authenticity of this document
Jammu
05.03.2025 16:30