

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

OWP No.731/2005

Dated : July 30, 2009

Chowdhari Din Mohd. Khatana **Vs.** State of J&K and Ors.

Coram:

Hon'ble Mr. Justice Virender Singh

Appearing counsel:

For petitioner(s) : Mr. P.N. Bhat, Advocate.

For respondent(s) : Mr. A.H. Qazi, Addl. Adv. General, for
respondents-1 to 4.

None for respondents-5 to 7.

Mr. Bhat appears for the petitioner. Mr. A.H. Qazi,
learned Additional Advocate General, has put in appearance on
behalf of respondents-1 to 4. Neither Respondents-5 to 7 have
appeared personally nor they have been represented by any body.
They are set ex parte.

The instant petition is disposed of vide a separate order
of even date passed by this Court.

(Virender Singh)
Judge

Jammu
30-07-2009
T.Arora, Secy.

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i)	Whether approved for reporting in Press/Journal/Media	Yes/No
ii)	Whether to be reported in Digest/Journal	Yes/No

The petitioner is seeking relief under the Jammu and Kashmir Migrant Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act, 1997 (hereinafter to be referred as “the Act”) with regard to some chunk of land left by him when he had migrated to Jammu. Since the petitioner has initially missed mentioning of some part of the land, he after seeking permission of this Court for amending the writ petition has now depicted his entire land in para 5 of the amended writ petition.

The grievance shown herein is that the private respondents (set ex parte) had broken the boundaries of the land of the petitioner and included a considerable part of petitioner's land in their land and also caused damage to the trees standing in the land of the petitioner.

Mr. Qazi appearing for respondents-1 to 4 has not filed the reply to the main petition till date.

At the very outset, Mr. Bhat submits that the instant petition may be disposed of at the admission stage itself with a direction to respondent-4 to treat the instant petition as representation on behalf of the petitioner for the relief sought herein under the Act, with a further prayer that this exercise may be done at the earliest so that no further damage is caused to the land of the petitioner by the private respondents.

Mr. Qazi has no objection to it. He, however, states that a direction be also issued to respondent-4 that while deciding the case of the petitioner, all necessary parties be put to notice.

In view of the above, the instant petition is admitted and disposed of finally at this stage itself with a direction to respondent-4 to treat the instant petition as a representation on behalf of the petitioner and take a decision on it after giving an opportunity of being heard to all the parties whosoever involved in the controversy. Respondent-4 shall also allow the petitioner to produce any document(s) in support of his claim over the land in question and take it(them) into consideration before coming to any conclusion. All this exercise shall be completed within a period of three months from the date, a copy of the order along with copy of writ petition and all the

annexures attached thereto is made available to him, which shall be the responsibility of the petitioner only.

The petition is disposed of in the aforesaid terms along with all the connected CMP (s), if any.

(Virender Singh)
Judge

Jammu
30-07-2009
T.Arora, Secy.