

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU.

LPAOW No. 64/2001, CMP Nos. 29/2010,  
CMP No. 87/2001 & CMP No. 220/2001

Date of decision: 22.10.2010

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**Kamlesh and ors.                      vs.                      Kuldeep Kumar and ors.**

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CORAM:

**Hon'ble Mr. Justice Dr. Aftab H. Saikia, Chief Justice**  
**Hon'ble Mr. Justice Sunil Hali, Judge,**

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Appearing counsel:

For Appellant(s):     Mr. L. K. Sharma, Advocate.

For respondent(s): Mr. V. R. Wazir, Advocate for 1 to 12.

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| (i)  | Whether to be reported in<br>Press, Journal/Media: | Yes/No |
| (ii) | Whether to be reported in<br>Journal/Digest:       | Yes/No |
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**Sunil Hali-J.**

One Inderjeet Singh was granted lease-hold rights of plot Nos. 32 and 33, over which two shops nos. 1142 and 1143 were constructed. The power of attorney holder of the said land Smt. Chand Kour sold the shops to respondent nos. 1 & 2, for which Sale Deed was executed in their favour. The said sale deed was executed in violation of the provisions of Section 12-A of the Land Grant Act. As a result of which lease in favour of the Inderjeet Singh was determined and the same was resumed. The resumption order was passed by the Government on 06.03.1975.

The present appellants had taken the said shops on rent from the respondents. After the land was resumed, eviction proceedings in terms of Public Premises (Eviction of Unauthorized Occupants) Act were initiated against the present appellants being the unauthorized occupants of the property in question. The appellants approached the Government for regularization of their possession over the shops and for grant of proprietary rights. The plea of the appellants was accepted by the Government and the proprietary rights were confirmed on them vide Government Order No. Rev (NDJ) 138 of 1979 dated 19.6.1979 on payment of price of the shops. The appellants complied with the said order by paying the price and became the absolute owner of the shops. This order became subject matter of challenge before the J&K Special Tribunal. The learned Tribunal allowed the review petition filed by the respondent Nos. 1 & 2 to the extent of shop No. 1142 and maintained the order dated 04.06.1987 in respect of shop No. 1143.

The order passed by the learned Tribunal was challenged before this Court, who set aside the order of learned Tribunal by holding that it has no jurisdiction to hear the review petition, however, granted liberty to

respondents to challenge the same before an appropriate forum.

It is in these circumstances, writ petition bearing No. OWP No. 759 of 1997 came to be filed before the learned Single Judge and the learned Single Judge vide its order dated 25.01.2001 allowed the writ petition of respondent Nos. 1 & 2 only on the question that they were not heard before allotment order was issued in favour of the appellants. It is, how, this appeal is before this court.

The matter is taken up for hearing today. It is reported that appellants have entered into a compromise, whereby the appellants have surrendered their ownership right over shop No. 1142 constructed over plot no. 32 in favour of respondent no.1. The said shop falls in the share of respondent no. 1. As a result of the compromise deed, respondent no. 1, who was petitioner in the aforesaid writ petition, shall be absolute owner of shop No. 1142 constructed over plot No. 32 and the appellants shall remain exclusive owner of shop No. 1143 constructed over plot No. 33.

In view of the compromise deed filed and submissions made at bar by the learned counsel for the appellants and respondent no. 1, we do not intend to go into the merit of the appeal. Accordingly, the judgment of

the learned Single Judge shall stand modified to the extent mentioned herein above. As a result of this, appellants shall enjoy exclusive ownership right over the shop no. 1143 constructed over the plot No. 33 and respondent no. 1 shall be the absolute owner of shop No. 1142 constructed over the plot No. 32.

In view of the above, this appeal is disposed of. Connected CMPs shall also stand disposed of.

The compromise deed filed by the parties shall form part of record.

**(SUNIL HALI)**  
**JUDGE**

**(DR. AFTAB H. SAIKIA)**  
**CHIEF JUSTICE**

JAMMU  
22.10.2010  
Karam\*