

Serial No. 106
Admission

IN THE HIGH COURT OF JAMMU AND KASHMIR
AT SRINAGAR

CM No. 6960/2020
WP (C) No. 2157/2020
CM No. 6961/2020

Sushil Razdan

Petitioner(s)

Through:- Mr. Vishal Goel, Adv.

Vs.

UT of J&K and Ors.

Respondent(s)

Through:- Mr. B. A. Dar, Sr. AAG.

CORAM:-

Hon'ble Mr. Justice Vinod Chatterji Koul, Judge.

(O R D E R)
31-12-2020

CM NO. 6960/2020:

Application in view of averments made therein, is allowed and affixing of court fee, etcetra, is waived off, at this stage. However, petitioner/applicant shall make good the deficiency in Court fee, etc, within a week's time after reopening of this Court in physical mode/hearing.

WP (C) No. 2157/2020:

01. Heard.

02. Issue notice to the respondents. Mr. B. A. Dar, learned Sr. AAG enters appearance and accepts notice on behalf of the respondents.

03. Petitioner has claimed following relief in this writ petition:

- a) By allowing this petition with a prayer to command the respondent No. 1 (hereinafter called as District Magistrate, Anantnag) to evict the illegal, and unauthorized and forcible occupants from the suit

property measuring 07 kanals & 15 marlas falling under Survey No. 814, 815 and 816 situated at Village Akura, Tehsil Mattan, District Anantnag Kashmir under Section 4 and 5 of the Jammu and Kashmir Migrant Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act, 1997 and also recover the usufruct of the suit property under section 13 of the Migrants Act from the illegal and unauthorized occupants from the date of occupation till its realization.

- b) With a further prayer to command the respondent NO. 1 to take the custody of suit property by exercising powers under Jammu and Kashmir Migrant Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act, 1997 and Rules framed there under being the custodian of the migrant property and hand over the possession of the suit property to petitioner.
- c) With a prayer to restrain the official respondents from changing the ownership rights of the petitioner with regard to the suit property in favour of any illegal and unauthorized occupants.

04. The relief has been claimed on the ground that the petitioner is originally a resident of village Akura, Tehsil Mattan, District Anantnag where he owns land measuring 07 kanals 15 marlas (04 kanals 4 Marlas) exclusively owned by him while as 03 kanals 11 Marlas are his share in the Shamilat Land. The same land is stated to be comprised of Khasra No. 814, 815 and 816. He submits that in the year 1990 on threat perception of the militants, he along with his family members migrated to Jammu. He is presently a migrant and is registered with the Relief Organization, Jammu. He further submits that he came to know that some illegal and unauthorized occupants are trying to occupy his property in Kashmir regarding which he has made a detailed representation to the District Magistrate, Anantnag for seeking protection under the Jammu and Kashmir Migrant Immovable Property (Preservation,

Protection and Restraint on Distress Sales) Act, 1997 but till date such representation has not been considered at all.

05. At this stage Mr. B. A. Dar, learned Sr. AAG submits that this writ petition can be disposed of by directing the Deputy Commissioner, Anantnag to decide the representation which is Annexure-IV attached with this writ petition strictly in accordance with the provisions contained in Jammu and Kashmir Migrant Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act, 1997.

06. Learned counsel for the petitioner submits that he would be satisfied if this writ petition is disposed of in terms of the submission made by Mr. B. A. Dar, learned Sr. AAG.

07. In view of the submissions made above, this writ petition at this stage is disposed of with a direction to Deputy Commissioner, Anantnag to decide and dispose of the representation of the petitioner which is Annexure-IV attached to this writ petition within a period of four weeks from the date certified copy of this order along with representation is served upon him and pass appropriate orders in accordance with the provisions as contained in the Jammu and Kashmir Migrant Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act, 1997.

08. Disposed of as above.

(Vinod Chatterji Koul)
 Judge

SRINAGAR
31.12.2020
"Aasif"