

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) No. 1964/2021
CM No. 6534/2021

Moti Lal Nehru

.....Petitioner(s)

Through: Mr.M. A Wani, Advocate.

V/s

UT of J&K & Ors.

..... Respondent(s)

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

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

ORDER

30.09.2021

The short grievance projected by the petitioner in this petition is that his application for permission to sell the property in terms of Section 3 of Jammu and Kashmir Migrant Immovable Property (Preservation, Protection and Restraint On Distress Sales) Act, 1997 read with Rule 3 of the Rules framed thereunder is pending consideration before the respondent no. 2-Division Commissioner, Kashmir, since 2013. The office of Divisional Commissioner, Kashmir, has taken more than 8 years and has not yet taken a decision on the application, whereas, as per the mandate of the statute, the permission is required to be granted within a period of 15 days.

Learned counsel for the petitioner thus submits that the petitioner would feel satisfied, if a direction is issued to respondent no. 2 to take a final decision on the application of petitioner for permission within some specified time.

Having heard learned counsel for the parties and perused the material on record, I am of the view that Section 3 of Jammu and Kashmir Migrant Immovable

Property (Preservation, Protection and Restraint On Distress Sales) Act, 1997 read with Rules 3, 4 & 5 of the Rules framed thereunder cast a statutory obligation on the respondent no. 2 to dispose of the application for seeking permission to sell Migrant Property within a period of 15 days. That being the position, delay of more than 9 years in completing the proceedings and passing an appropriate orders cannot be justified on any ground whatsoever.

Be that as it may, having regard to the nature of relief prayed for and the submissions made at bar, this petition is disposed of by directing the respondent no. 2-Divisional Commissioner, Kashmir, to take the proceedings initiated by him on the application of the petitioner for grant of permission to sell the migrant property to its logical end within a period of six weeks from the date copy of this order along with the copy of the paper book is served upon him.

Disposed of.

**(SANJEEV KUMAR)
JUDGE**

SRINAGAR

30.09.2021

"Nuzah Shafi"

