

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

WP(C) No. 641/2023
CM No. 1496/2023

Mohd. Rafiq

....Petitioner/Appellant(s)

Through :- Mr. Gagan Basotra, Sr. Advocate with
Mr. Nadeem Bhat, Advocate
Mr. Rishabh K Sharma, Advocate.

V/s

UT of J&K and others

....Respondent(s)

Through :- Mr. Chetan Prabhkar, Advocate for R-5.

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER
15.03.2023

Heard learned counsel for the petitioner.

The respondent no. 5-Lachman Dass bearing status as registered migrant from district Ramban came to invoke the jurisdiction of District Magistrate, Ramban under J&K Migrant Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act, 1997 for seeking eviction of the petitioner herein from the land measuring 24 kanals 10 marlas comprising khasra no. 544 min situated at mauza Somber Haroge, tehsil and district Ramban which is said to be ownership land of the respondent no. 5-Lachman Dass.

An application to this effect was filed by the respondent no. 5 before the District Magistrate, Ramban on 06.09.2013 which remained pending for an almost ten years when it came to be decided in terms of an

order dated 20.07.2022 whereby an application filed by the respondent no. 5 was rejected.

Against this order of District Magistrate, Ramban, the respondent no. 4 preferred an appeal under section 7 of the J&K Migrant Immovable Property (Protection, Preservation & Restraint on Distress Sales) Act, 1997 before the Financial Commissioner (Revenue), J&K who in terms of judgment dated 16.02.2023 came to allow the appeal by setting aside the order of the District Magistrate, Ramban and remanded the matter to the District Magistrate, Ramban with a direction to proceed in terms of section 4 & 5 of the said Act. It is against this adjudication that the petitioner herein is in the present writ petition under Article 226 of the Constitution of India.

Prima facie case is made out.

Issue notice to the respondents.

Mr. Chetan Prabhkar, learned counsel accepts notice on behalf of the respondent no. 5, as such no need to send for notice to the respondent nos. 1 to 4.

Reply/objections be filed within a period of four weeks.

Send for the record of the file no. 1155/FC-AP bearing date of institution 04.08.2022 and date of decision 16.02.2023 titled "Lachman Dass vs. Mohd. Rafiq" passed by the Financial Commissioner (Revenue), J&K, Jammu and file no. 07/DCR/Reader bearing date of institution 06.09.2013 and date of decision 20.07.2022 titled "Laxman Dass vs. Mohd. Rafiq" passed by the District Magistrate, Ramban.

In the meantime, status-quo as obtaining with respect to the aforementioned land as on date shall be maintained. This direction is, however, subject to objections from the other side.

List on 29.04.2023.

(RAHUL BHARTI)
JUDGE

JAMMU
15.03.2023
Shivalee

