IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Case No: LPA No. 126/2025 in
WP(C) No.1439/2024
CM No. 8057/2025
CM Nos. 3880-3881/2025

Reserved on: 07.04.2026
Pronounced on:28.04.2026
Uploaded on: 28.04.2026

Whether the operative part or full
Judgment is pronounced **: *Full***

Union Territory of Jammu & Kashmir
and others

…Petitioner(s)/Appellant(s)

Through: Ms. Monika Kohli, Sr. AAG

v/s

Ravinder Kanta and others

Through: Mr. Jagpaul Singh, Advocate

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.

JUDGMENT

PER OSWAL-J

1. This intra-court appeal is directed against the judgment dated 05.08.2024 rendered by the learned writ Court in WP(C) No. 1439/2024, titled "*Ravinder Kanta and Others v. UT of J&K and Others"*, whereby the writ petition filed by the respondents came to be allowed, and the appellant No. 2 was directed to issue *Fard Intekhab* qua the subject land in favour of the respondents, subject to there

being no other legal impediment and the appellant No. 3 was directed to admit and register the document upon its presentation, strictly in accordance with law.

2. The brief facts necessary for disposal of the present appeal are that the respondent Nos. 1-4, claiming to be owners in possession of the land measuring 09 Kanals falling under Khasra No. 153, situated at Village Bara, Tehsil Vijaypur, District Samba, applied online for issuance of *Fard Intikhab* before appellant No. 2, i.e., Tehsildar Vijaypur, qua the said land for the purpose of sale. The said application, however, came to be rejected by the Tehsildar on the ground that the same was in violation of Government Order No. S-432 of 1966 dated 03.06.1966. Aggrieved thereof, the respondents preferred a writ petition, which came to be allowed by the learned writ Court vide judgment dated 05.08.2024, by placing reliance upon the judgments rendered by the learned Single Judge in *Mohammad Akbar Shah v. State of J&K and Others*, AIR 2017 J&K 14, and *Angrez Singh v. UT of J&K and Others*, AIR Online 2023 J&K 553.

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3. Appellants, being aggrieved of the impugned judgment (supra), have preferred this intra-court appeal, inter alia, on the ground that Government Order No. S-432 of 1966 dated 03.06.1966 categorically stipulates that the grantee shall utilize the land solely for agricultural purposes and shall not be entitled to alienate the same without prior permission of the Government. It is contended that, inasmuch as the respondents never applied to the Government for grant of such permission qua the subject land, their application was rightly rejected by appellant No. 2.

4. Pursuant to a specific query made by this Court as to whether the judgment rendered by the learned writ Court in *Mohammad Akbar Shah v. State of J&K and Others*, AIR 2017 J&K 14, had been assailed by the Government, Mrs. Monika Kohli, learned Senior AAG, fairly conceded that the said judgment was never challenged.

5. Learned counsel for the respondents submits that the present appeal has been rendered infructuous with the passage of time. It is contended that the *Fard Intikhab* has already been issued, and the subsequent sale deeds have been duly executed and registered, leaving no surviving cause of action.

6. The contention of the appellants is that the land in respect whereof proprietary rights have been conferred under Government Order No. S-432 of 1966 dated 03.06.1966 cannot be alienated without prior permission of the Government, and that the grantee is under a continuing obligation to use the said land exclusively for agricultural purposes.

7. In *Mohammad Akbar Shah v. State of J&K and Others*, AIR 2017 J&K 14, it has been observed in paragraph 13 of the judgment as under :-

> "**13**. In earlier times, agriculture activity was the backbone of economy of the State. The land, which was given for agriculture purposes to a State subject, was to ameliorate the sufferings of such person/his family. Now the times have changed. The agriculture activity is no more the main economic activity of the State. The condition of seeking previous permission of the Government for alienation of land, which was given for agriculture purposes, in terms of paragraph 04 of the order of 1966, is rendered otiose and will not effect right of the owner of land to alienate the same provided other statutory requirements are fulfilled for such alienation."

6. Learned Single Judge, while placing reliance upon the judgment (supra), has held that no prior permission of the Government for alienation of land under the guise of the aforesaid Government Order can be insisted upon.

7. The law on this point has held the field for a decade. Once the initial judgment declaring the condition of prior permission as otiose has attained finality, it became a benchmark for all subsequent cases. The Government cannot be permitted to resort to policy of 'pick and choose' which judgments it accepts and which it assails years later. Such selective challenges undermine the principle of finality and violate the mandate of judicial discipline, which requires that settled positions remain undisturbed.

8. In the realm of jurisprudence, legal certainty is as indispensable as the administration of justice. Where a ruling by a Single Judge has held the field for a significant duration without being disturbed or reversed, it attains the character of a settled position of law and should not ordinarily be unsettled, as doing so would undermine judicial stability, unless the decision is demonstrably per incuriam or palpably erroneous.

9. In "***Raj Narain Pandey v. Sant Prasad Tewari*", (1973) 2 SCC 35**, the Hon'ble Supreme Court of India has observed as under:

> "**10.** It was also observed that to take a contrary view from the law laid down in those five propositions would have the effect of unsettling the law established for a number of years. Mr Agarwal has not questioned the correctness of the above mentioned five propositions and, in our opinion, rightly so. **In the matter of the interpretation of a local statute, the view taken by the High Court over a number of years should normally be adhered to and not disturbed. A different view would not only introduce an element**

of uncertainty and confusion, it would also have the effect of unsettling transactions which might have been entered into on the faith of those decisions. The doctrine of stare decisis can be aptly invoked in such a situation. As observed by Lord Evershed M.R. in the case of *Brownsea Haven Properties* v. *Poole Corpn*. [(1958) 1 All ER 205] **there is well-established authority for the view that a decision of long-standing on the basis of which many persons will in the course of time have arranged their affairs should not lightly be disturbed by a superior court not strictly bound itself by the decision.**"

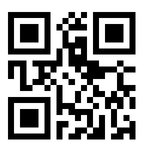
(emphasis added)

10. In "***Kattite Valappil Pathumma v. Taluk Land Board*, (1997) 4 SCC 114",** the Hon'ble Apex Court has observed as under:

"**6.** We are further of the view, that even if another view is possible, we are not inclined to take a different view at this distance of time. **Interpretation of the law is not a mere mental exercise. Things which have been adjudged long ago should be allowed to rest in peace. A decision rendered long ago can be overruled only if this Court comes to the conclusion that it is manifestly wrong or unfair and not merely on the ground that another interpretation is possible and the court may arrive at a different conclusion. We should remember that the law laid down by the High Court in the above decision has not been doubted so far. The Act in question is a State enactment. These are weighty considerations to hold that even if a different view is possible, if it will have the effect of upsetting or reopening past and closed transactions or unsettling titles all over the State, this Court should be loathe to take a different view. On this ground as well, we are not inclined to interfere with the judgment under appeal.**"

(emphasis added)

11. The Appellants have failed to demonstrate any legal infirmity in the judgment rendered in *Mohammad Akbar Shah v. State of J&K and Others*. In the absence of any compelling argument that the said decision is contrary to law, this Court finds no reason to deviate from a view that has held the field for nearly a decade.



12. Accordingly, we are not inclined to interfere, and the present appeal is **dismissed** by upholding the judgment rendered by the learned writ Court. Before parting, it is necessary to note a discrepancy in the record; the appellants have annexed a copy of a different writ petition in lieu of **WP(C) No. 1439/2024**. The correct petition, titled *'Ravinder Kanta and Others v. UT of J&K and Others'*, was subsequently brought on record by the respondents in their reply to the condonation of delay application.

(Rajnesh Oswal)
Judge

(Arun Palli)
Chief Justice

Jammu
28.04.2026
Madan Verma-Secy

Whether order is speaking? **Yes.**
Whether order is reportable**?** **Yes.**