

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR
(Through Virtual Mode)**

WP(C) No.90/2026

Reserved on: 12.03.2026
Pronounced on: 18.05.2026.
Uploaded on: 18.05.2026.

Whether the operative part or full
judgment is pronounced: Full

Nazira Begum

.....Petitioner(s)

Through: Mr. Hilal Ahmad Bhat, Advocate

Vs

Union Territory of J&K and others

..... Respondent(s)

Through: None for R-1 & 2.
Mr. Mian Muzaffar, Advocate for R-3.

Coram: HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE

ORDER
18.05.2026

1. Through the medium of the instant petition filed under the provisions of Article 226 of the Constitution of India, the petitioner seeks the issuance of Writ of Mandamus for commanding upon the official respondent No.2 i.e. Sub-Registrar (Additional Deputy Commissioner, Awantipora) to register the sale deed pending disposal in his office and executed between him i.e. the petitioner/vendee and the respondent No.3/vendor (through attorney holder- Ghulam Mohd. Makroo Lt. S/o Mohammad Shaban Makroo R/o Jawberara Tehsil Awantipora District Pulwama) in respect of the landed Estate measuring 04 Kanals falling under survey No.268 Min situated at Revenue Estate Jawberara Tehsil Awantipora District Pulwama, already permitted vide order No.76/DIVK of 2025 dated 07.08.2025 of the learned Divisional Commissioner Kashmir, in accordance with the law.

2. The case of the petitioner/vendee as projected through the medium of the instant petition is that she is permanent resident of Union Territory of Jammu and Kashmir and a citizen of India, thus entitled to the protection of her fundamental and other legal rights guaranteed under the Constitution of India, as also under other laws framed thereunder. That some years ago, the private respondent No.3 a Kashmiri migrant being the actual resident of Jawbrara Tehsil, Awantipora District Pulwama A/P House No.105, Purani Mandi, Jammu disclosed his intention Sell his land measuring 04 Kanals falling under survey No.268 min situated at Estate Jawbrara Tehsil Awantipora District, Pulwama (*hereinafter referred to as the 'Subject Land' for short*) and the petitioner/vendee agreed to purchase the same. That in furtherance of their desire, they executed an agreement to sell and other relevant documents, including the power of attorney by the respondent No.3/vendor, so as to facilitate the execution and registration of the formal sale deed in respect of the subject land. That the respondent No.3/vendor through his attorney holder-Ghulam Mohammed Makroo applied to the office of the learned Divisional Commissioner, Kashmir in terms of the provision of Section 3 of Jammu and Kashmir Migrant Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act 1997 (*hereinafter referred to as the 'Migrant Act' for short*) for the requisite permission in connection with the sale of the subject land. That the requisite permission was granted by the learned Divisional Commissioner on the basis of revenue field agency report and revenue extracts vide order No.76/DIVK of 2025 dated 07.08.2025. That thereafter, the parties executed a formal sale deed in respect of the subject land and presented the same in the office of the respondent No.2 for the registration thereof. That however,

the respondent No.2 has kept the document pending in his office without addressing the same in accordance with the law governing the field, which has been causing great prejudice and hardship to both the parties. That actually, upon execution of the agreement to sell between the parties as also of the irrevocable general Power of Attorney by the respondent No.3/vendor in favour of his attorney holder-Ghulam Mohammad Makroo, being the father of the petitioner/vendee, a structure came to be erected in good faith by the petitioner/vendee on the subject land. That the respondent No.2 has been delaying the registration of the document on the main ground that the structure existing on the subject land is not included in the permission Order dated 07.08.2025 issued by the learned Divisional Commissioner, Kashmir. That the respondent No.2 despite being submitted and clarified that the structure did not belong to the respondent No.3/vendor and instead was raised by the petitioner in good faith after execution of the agreement to sell and settlement of other terms and conditions way back in the year 2024, still remained adamant on the aforesaid issue. That the learned Sub-Registrar concerned even required the petitioner/vendee to get the valuation of the structure done for payment of stamp duty and registration fees on the said amount, which also was done by the petitioner under compelling circumstances. That the respondent No.2 has still slept over the matter, by not addressing the document of sale deed in accordance with the law.

3. I have heard the learned counsel for the petitioner/vendee and the respondent No.3/vendor in respect of the matter.

4. The learned counsel for the petitioner/vendee reiterated his stand taken by him, in the memo of petition, whileas the respondent No.3/vendor submitted that

he has got no objection in admitting the document to registration by the respondent No.2.

5. I have perused the instant petition and the copies of documents enclosed with the same especially, the sale permission issued by the office of learned Divisional Commissioner bearing Order No.76/DIVK of 2025 dated 07.08.2025 as also the communication bearing No.07/OQ/TA dated 02.04.2024 purported to have been issued by the Tehsildar Awantipora to the Deputy Commissioner, Pulwama. The contention of the petitioner/vendee is that she raised the construction on the subject land in good faith prior to the issuance of the permission dated 07.08.2025 by the office of learned Divisional Commissioner Kashmir as she had already executed a sale agreement in respect of the subject land with the responder No.3/vendor.

6. Admittedly, there is no mention of the structure/residential house in the sale permission dated 07.08.2025 issued by the learned Divisional Commissioner. The communication dated 02.04.2024, a Xerox copy whereof has been placed on the record of the petition by way of **Annexure-II** reveals that the construction of residential house by the attorney holder-Ghulam Mohammad Makroo on the subject land was communicated to the office of the learned Deputy Commissioner Pulwama by the Tehsildar Awantipora.

7. This Court has reason to believe that the fact of the erection of the structure on the suit land was not mentioned in the revenue papers that originated from the field revenue agency in connection with the sale permission case. Had the said fact been communicated in the revenue papers/reports submitted to the office of the learned Divisional Commissioner, Kashmir by the field revenue agency, the mention thereof would have definitely come in the sale

permission dated 07.08.2025. It appears that either the fact of the structure has been suppressed/concealed in the revenue papers/reports by the field agency or the same has been constructed subsequent to the issuance of building permission dated 07.08.2025.

8. In case, the structure/residential house was constructed by the petitioner/vendee herself in good faith either before or after the issuance of the sale permission dated 07.08.2025, then in either case, the said structure should not have been the subject matter of the sale deed in addition to the subject land measuring 04 Kanals falling under survey No.268 Min situated in Estate Jawberara Tehsil Awantipora District Pulwama. She in that eventuality was not required to mention the structure in the sale deed and to pay stamp duty on the valuation amount of the same.

9. The respondent No.2 i.e. Sub-Registrar concerned genuinely appears to have been confronted with a *facto*- legal query to be addressed by him under law. However, he was supposed to address the document in accordance with the law governing the field, rather to sleep over the same being unwarranted under law. By keeping the document pending without passing of any orders on the same in accordance with the law, the Sub-Registrar concerned has made the parties to the document to suffer, and remediless.

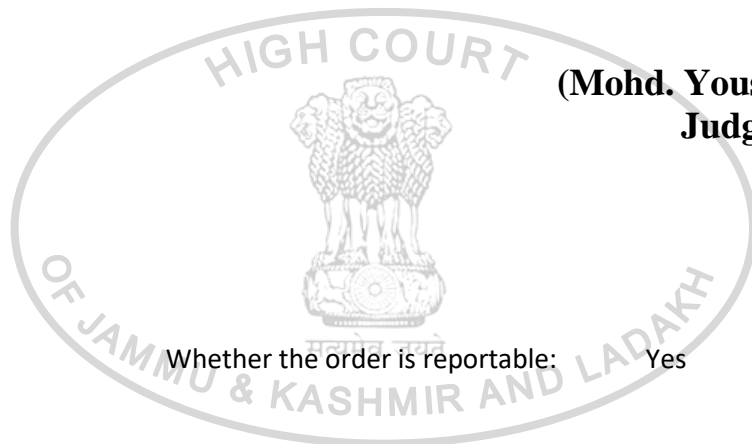
10. Now the ends of justice demand that the document needs to be dealt with having regard to the provisions of law as the same is reported to be pending disposal in the office of the Sub-Registrar concerned since last about 7 months. The respondent No.2, in view of the conditions appended to the Sale Permission dated 07.08.2025 issued by the learned Divisional Commissioner, Kashmir, is within his competence to verify the facts and the revenue record. If it is found by

him upon verification that the structure/residential house presently standing on the subject land does not belong to the respondent No.3/vendor and has been raised/constructed by the petitioner/vendee or even by the attorney holder, who is none but her father either before or after the issuance of the sale permission dated 07.08.2025 of the learned Divisional Commissioner, then in such situation he can admit the document to registration with a mention of the said fact in his registration order by way of a note or otherwise, provided the document is complete in other legal respects.

11. The instant petition is, accordingly, *disposed of* with the direction to the learned Sub-Registrar/respondent No.2 to address the pending document in accordance with the law, keeping in view the observations made hereinbefore.

12. *Disposed of.*

Jammu
18.05.2026
Shammi



(Mohd. Yousuf Wani)
Judge

Whether the order is reportable: Yes