

UNION TERRITORY OF JAMMU AND KASHMIR
OFFICE OF THE DIVISIONAL COMMISSIONER, KASHMIR
Prescribed Authority under Section (3) of J&K Migrant Immovable Property (Preservation,
Protection and Restraint on Distress Sales) Act, 1997.
(Phone/ fax. 18184) -2487771, 2477775, 2452558, 2455357 (Email address: divcom@jksm.gov.in)

Subject: - Application of S/Sh. (1) Amit Kumar, (2) Ajay Kumar (sons), (3) Smt. Roopa Ji W/o Late Sh Soom Nath, (4) Mohan Lal, (5) Omikar Nath, (6) Hari Krishan, (7) Ashok Kumar (sons) and (8) Smt. Gunwati W/o Late Sh Mukand Ram R's/o Chattri Banday, Tehsil & District Bandipora A/P Jagati Township, Nagrota, Jammu for permission to alienate migrant immovable property in accordance with the provisions of J&K Migrant Immovable Property (Preservation, Protection & Restraint on Distress Sales) Act, 1997.

Reference: - 1) Deputy Commissioner, Bandipora's letter No DCB/SQ/2016/748 dated 23 11 2016 and No. DCB/SQ/2022/3013 dated 21 02 2022
2) Hon'ble High Court of J&K Order dated 30 12 2023 passed in WP(C) No. 3444/2023 titled Smt. Roopa Ji and Ors Vs UT of J&K and Ors

ORDER NO: 57-DIVK OF 2024
DATED : 02 - 05 - 2024

Whereas, Deputy Commissioner, Bandipora vide letter No. DCB/SQ/2016/748 dated 23.11.2016 and No. DCB/SQ/2022/3013 dated 21.02.2022 has reported that the alienor(s) intend to alienate land measuring 03 kanals 16 marlas falling under Survey No. 503-min situated in estate Chittibanday, Tehsil & District Bandipora; and

Whereas, Deputy Commissioner, Bandipora after due enquiry from the field functionaries in terms of prescribed procedure laid down under law/rules/guidelines in vogue has verified title, / and possession of the land 03 kanals 16 marlas falling under Survey No. 503-min situated in estate Chittibanday, Tehsil & District Bandipora vide his above referred letters, has recommended the case for grant of permission for alienation under the provisions of J&K Migrant Immovable Property (Preservation, Protection & Restraint on Distress Sales), Act, 1997; and

Whereas, Deputy Commissioner, Bandipora in terms of rule 3(b) of J&K Migrant Immovable Property (Preservation, Protection & Restraint on Distress Sales), Rules, 1997 has also issued "No Objection Certificate" under endorsement No. DCB/SQ/2016/748 dated 23.11.2016;

Whereas, meanwhile a complaint was received from the landowners of Chattibanday through Jehangir Ahmad Bhat submitting therein not to grant any alienation permission order for the land in question; and

Whereas, in the meantime, the attorney holder has approached the Hon'ble High Court of J&K and Ladakh at Srinagar through the medium of writ petition bearing WP(C) No. 3444/2023 in which the Hon'ble Court has been pleased to pass the following order: -

"..... Accordingly, the writ petition is disposed of with the direction to respondent No. 2 (Divisional Commissioner, Kashmir) to take appropriate decision in the application of the petitioner for grant of permission to alienate the land in accordance with statutes and rules governing the field. The decision shall be taken expeditiously preferably within a period of one month from the date of copy of this order is made available to the said respondent."

Whereas, to rule out the possibility of distress sale the alienor(s) was heard on video call who authenticated the veracity of the documents executed by them and also intimated that the sale has not been made in distress/duress and consented to the grant of alienation permission in favour of the alienee(s).

Now, therefore, in pursuance of the powers vested upon me under Section 3 of the Jammu and Kashmir Migrant Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act, 1997, sanction is hereby accorded to the alienation of land measuring 03 kanals 16 marlas falling under Survey No. 503-min situated in

estate Chittibanday, Tehsil & District Bandipora BY S/Sh. (1) Amit Kumar, (2) Ajay Kumar (sons), (3) Smt. Roopa Ji W/o Late Sh. Soom Nath, (4) Mohan Lal, (5) Omkar Nath, (6) Hari Krishan, (7) Ashok Kumar (sons) and (8) Smt. Gunwati W/o Late Sh. Mukand Ram R's/o Chatti Banday, Tehsil & District Bandipora A/P Jagati Township, Nagrota, Jammu IN FAVOUR OF (1) Nazir Ahmad (02 kanals) and (2) Ghulam Mohammad (01K-16M) S's/o Late Abdul Jabbar Malla R's/o Chattibanday, Tehsil & District Bandipora, subject to the following conditions -

- a) That the applicant(s) is/are rightful owners/occupants of the property proposed to be alienated and is free from all encumbrances and the title of the proposed alienor(s) is certified by the Tehsildar concerned under his seal and signatures
- b) That the value of the property (land) under proposed alienation shall be calculated as per the stamp rate prevailing at the time of execution/ registering of Sale Deed applicable under irrigated agriculture category of land of estate Chittibanday, Tehsil & District Bandipora as approved by the Committee constituted under the J&K Preparation and revision of market value guideline rules 2011.
- c) That no illegal construction shall be allowed by the authorities of District Bandipora on Khasra No. 553 of village Chittibanday, District Bandipora, recorded as "Gair Mumkin Chasma (Spring)" as ordered by the Hon'ble High Court in WP (C) No 1771/2023 vide its Order dated 17.07.2023. Besides, Deputy Commissioner, Bandipora shall issue necessary instructions to the concerned for conserving/ preserving the said Spring so that the people reap its benefits. Further, if any construction has been raised on or around the said Spring, it shall be got demolished forthwith.
- d) That Deputy Commissioner/District Magistrate, Bandipora shall take adequate measures for opening/unblocking of the irrigation channel flowing through Survey No. 503-min which has been blocked by Nazir Ahmad Malla S/o Abdul Jabbar Malla as reported by Deputy Commissioner, Bandipora vide letter No. DCB/SQ/2022-23/637-38 dated 17.02.2023 so that the landowners are able to irrigate their fields/land. Further, the existence of said irrigation kuhl shall also be got entered in the revenue records.
- e) That any permission under this Act i.e., J&K Migrant Immovable Property (Preservation, Protection & Restraint on Distress Sales) Act, 1997 and rules made thereunder, shall not be construed as permission for conversion or change of land use which may otherwise be prohibited by any Act/Rules made thereunder for the time being in force.
- f) That after completion of all registration formalities, the District Magistrate, Bandipora (Custodian of the Migrant Immovable Property) shall handover the possession of the property to the alienee(s) thereof through prescribed procedure.

DISCLAIMER: 1) THE INSTANT PERMISSION SHALL NOT BE TREATED AS A SUBSTITUTE FOR TITLE DOCUMENTS/SHARE OF THE APPLICANT/ DISPUTE FREE NATURE OF THE PROPERTY/LAND USE PERMISSION ETC

Om
2/1/24
DIVISIONAL COMMISSIONER,
KASHMIR

No: Div.Com/MLA/(2768)/2024

2/1/24
Dated: 02 - 05 - 2024

Copy to the: -

1. Financial Commissioner (Rev), J&K Govt, Jammu/Srinagar
2. Relief Commissioner (Migrants), Jammu
3. Deputy Commissioner, Bandipora
4. Alienee namely (1) Nazir Ahmad and (2) Ghulam Mohammad S's/o Late Abdul Jabbar Malla R's/o Chatti Banday, Tehsil & District Bandipora.
5. Alienors namely S/Sh. (1) Amit Kumar, (2) Ajay Kumar (sons), (3) Smt. Roopa Ji W/o Late Sh. Soom Nath, (4) Mohan Lal, (5) Omkar Nath, (6) Hari Krishan (7) Ashok Kumar (sons) and (8) Smt. Gunwati W/o Late Sh. Mukand Ram R's/o Chatti Banday, Tehsil & District Bandipora A/P Jagati Township, Nagrota, Jammu

.....FOR INFORMATION AND NECESSARY ACTION.