

**SUPREME COURT OF AZAD JAMMU AND KASHMIR**

[Appellate Jurisdiction]

**PRESENT:**

Raja Saeed Akram Khan, ACJ.

Civil PLA No.38 of 2020

(Filed on 28.01.2020)

Sajid Mehmood

.....PETITIONER

VERSUS

District Judge & others

....RESPONDENTS

[On appeal from the order of the High Court dated  
03.12.2019 in writ petition No.34 of 2015]

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FOR THE PETITIONER: Mr. Babar Ali Khan,  
Advocate.

FOR THE RESPONDENTS: Nemo.

Date of hearing: 21.05.2020

**JUDGMENT**

**Raja Saeed Akram Khan, ACJ**—The captioned petition for leave to appeal is the outcome of the judgment of the High Court dated 03.12.2019, whereby the writ petition filed by the petitioner, herein, has been dismissed.

2. The petitioner, herein, being non-subject applied for permission of purchasing some property in Tehsil Dudyal. The Commissioner, Mirpur vide order dated 24.06.2014 granted permission to purchase/built up house comprising land not exceeding two kanal situated in Tehsil Mirpur. Thereafter, the Assistant Secretary Board of Revenue through amending orders dated 13.08.2014 and 29.08.2014 replaced the word "Tehsil Mirpur" with "Tehsil Dudyal" and the word "land" with the "built up property". It is alleged that the petitioner purchased the land measuring one kanal from proforma respondent No.3, in Tehsil Dudyal and thereafter applied for registration of the sale-deed before sub-Registrar Dudyal on 22.12.2014. The learned sub-Registrar refused to register the sale deed on two accounts (i) that the land cannot be transferred in favour of any person who is non-state subject; and (ii) that amending orders were issued without lawful authority. The petitioner filed an appeal before the District Judge, Mirpur who accepted the same to the extent that

the amending orders were issued in accordance with law. Dissatisfied, the petitioner challenged the vires of section 4 of Azad Jammu and Kashmir Alienation of Land Act, 993 Bik., and the aforesaid amending orders being contrary to the AJ&K Interim Constitution, 1974 as well as the Council Order No.804 of 1935 read with notification dated 20.04.1927; by filing a writ petition before the High Court. After necessary proceedings, the learned High Court dismissed the writ petition through the impugned judgment, hence, this petition for leave to appeal.

3. Mr. Babar Ali Khan, Advocate, the learned counsel for the petitioner after narration of necessary facts submitted that the impugned order passed by the High Court is against the law. He submitted that the "state subject" has been defined under the Azad Jammu and Kashmir Interim Constitution, 1974 which means a person for the time being residing in Azad Jammu & Kashmir or Pakistan who is a 'state subject' as defined in the late Government of the State of Jammu and

Kashmir Notification No.I-L/84, dated the 20<sup>th</sup> April, 1927. While referring the notification dated 20<sup>th</sup> April, 1927 he submitted that according to this notification the land can be transferred in favour of non-state subject after issuance of *riyatnama/ijazatnama* from the Government. Thus, the petitioner was fulfilling all the requirements but the respondents failed to register the sale-deed in his favour. He added that the learned High Court has erroneously interpreted section 4 of the Azad Jammu and Kashmir Alienation of Land Act, 1995 Bik., whereas, a note to this section provides that the definition of state subject shall be as it is given in Council Notification dated 20.04.1927. The learned High Court has failed to appreciate the statutory provisions as a whole. He submitted that important legal propositions of public importance are involved, hence, grant of leave is justified.

After hearing the learned counsel for the petitioner at some length, I am of the view that some important legal propositions of public importance are involved requiring an authoritative

judgment. Leave to appeal is, therefore, granted. The petitioner shall deposit security of Rs.1,000/- within a period of one month otherwise the leave granting order shall automatically stand rescinded. The office shall proceed further according to rules.

ACTING CHIEF JUSTICE

Mirpur,  
21.05.2020