

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.821 OF 2004

Meghwal Samaj Shiksha Samiti ... Appellant

Vs.

Lakh Singh & Ors. ... Respondents

With

CIVIL APPEAL NO.828 OF 2004

State of Rajasthan & Ors. ... Appellants

Vs.

Lakh Singh & Ors. ... Respondents

ORDER

A village pond in village Raniwara Kalan, District Jalore, was shown as 'gair mumkin nada', in the revenue records. The said pond fell into disuse and after sometime the District Collector, Jalore allotted 0.48 hectares out of the said area, on a 99 year lease to Meghwal Samaj Shiksha Samiti ('Samiti' for short), the appellant in C.A.No.821/2004, vide order dated 6.8.2001 for the purpose of construction of a students' hostel.

2. One of the villagers (the first respondent in the two appeals) challenged the allotment of land in a public interest litigation on the ground that the village pond cannot be allotted for construction. The High Court, by the impugned order dated 20.11.2002, allowed the said petition. It recorded a finding that the land records clearly showed that the disputed plot allotted to the Samiti was part of the village pond. It held that such land which formed part of a pond could not have been allotted for the purpose of making any construction. Therefore, the High Court allowed the petition and set aside the allotment dated 6.8.2001 in favour of the Samiti. However, having noted the fact that the land had been allotted to the Samiti for the purpose of a students hostel for the benefit of backward classes, the High Court directed the State government to allot a suitable alternative land for the said hostel purpose to the Samiti within three months.

3. The said order is challenged in these two appeals by the Samiti and by the State government. As noticed above, the High Court, after examining the revenue records, has recorded a finding of fact that the land which was allotted, was a pond. Learned counsel for the appellants in the two appeals contended that the land though described in the revenue records as a 'gair mumkin nada' was neither a pond nor a channel leading to a water body and

there is no water in the said land; and that the patwari had given a report that the land was fit for allotment and therefore there was no irregularity in the allotment.

4. This court, in *Hinch Lal Tiwari vs. Kamala Devi* [2001 (6) SCC 496]

observed thus :

“There is concurrent finding that a pond exists and the area covered by it varies in the rainy season. In such a case no part of it could have been allotted to anybody for construction of house building or any allied purposes.

It is important to notice that the material resources of the community like forests, tanks, ponds, hillock, mountain etc. are nature's bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The Government, including the Revenue Authorities i.e. Respondents 11 to 13, having noticed that a pond is falling in disuse, should have bestowed their attention to develop the same which would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of the public at large. Such vigil is the best protection against knavish attempts to seek allotment in non-abadi sites.”

JUDGMENT

5. We find that after examining the entire facts, the High Court has recorded a finding that the land allotted was part of a village pond. The report of Patwari regarding suitability of land for allotment cannot supersede the revenue entries. Therefore, we do not propose to interfere with the impugned order of the High Court.

6. The appellants contended that a civil suit filed by the villagers for a similar relief is pending and in view of it, the public interest litigation ought not to have been entertained. Mere pendency of a suit by others, will not affect the maintainability of the writ petition in public interest.

7. In view of the above, we dismiss these appeals making it clear that if no alternative land has been allotted by the State to the Samiti (appellant in CA No.821/2004) for the purpose of the students hostel, it shall do so within a period of four months from today as directed by the High Court.

.....J.
(R V Raveendran)

.....J.
(P Sathasivam)

New Delhi;
February 17, 2011.

.....J.
(A K Patnaik)