

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

**WRIT PETITION (PIL) No.301 of 2017 & W.P.No.5553 of
2018**

COMMON ORDER: *(Per the Hon'ble the Chief Justice Satish Chandra Sharma)*

Regard being had to the controversy involved in the aforesaid cases, they were heard together and are being decided by a common order.

The facts of W.P.(PIL).No.301 of 2017 are reproduced as under:

The present public interest litigation has been filed by the petitioner stating that he is a resident of Gajwel Village, Siddipet District and the respondent – State is constructing a bus stand outside the Gajwel town, which is at a distance of 5½ KM. It has also been stated that the land over which the bus stand is being constructed in Sy.No.685 of Gajwel village to an extent of Ac.7.16 guntas is a shikam land as per the revenue record. The revenue record of the year 2017 has been filed in support of the aforesaid averment. Pahanies of the years 1950-51, 1955-53, 1985-86, 2005-06, 2010-11 were also been filed which describe the land as Adavi Mamindla Kunta Shikam i.e., small tank.

The petitioner's contention is that in the light of the judgment delivered by the Hon'ble Supreme Court in **Jagpal Singh and others vs. State of Punjab and others**¹ decided on 28.01.2011, no such construction can take place.

A detailed and exhaustive counter affidavit has been filed in the matter by the State Government and the affidavit reflects that the distance between the proposed bus stand in Sy.No.685 and Gajwel town is only Ac.2.4 guntas and not 5½ kms. It has been stated that the present bus stand is located in a very congested locality and only six busses can park in the parking way and therefore, keeping in view the necessity to have a bigger bus stand, a decision has been taken by the Government to allot Ac.3.5 guntas in Sy.No.685 to the Telangana State Road Transport Corporation for construction of bus stand. The reply further reveals that the so-called Adavi Mamindla Kunta was abandoned more than 50 years back and there is a road connecting Toopran village and Gajwel town through the same Kunta dividing Ac.7.16 guntas. It has also been stated that on one side of the road the land is Ac.3.5 guntas and on the other side of the road, the land is Ac.2.10 guntas. It has also been stated that a permanent road (bituminous) is existing over the

¹ Civil Appeal No.1132 of 2011 @ SLP(C).No.3109 of 2011 dt, 28.01.2011

so-called Adavi Mamindla Kunta. The respondents have also stated that as there was a need to construct a bus stand and as the land is having ayacut, letter dated 03.07.2017 was written to the Chief Commissioner of Land Administration, Telangana, for conversion of shikam land in Sy.No.685 to an extent of Ac.7.16 guntas of Gajwel Village and Mandal into Ayan and the Government of Telangana by order dated 08.07.2017 has accorded permission and the land was converted into Ayan over which a bus stand can very well be constructed. The Managing Director of TSRTC requested the District Collector, Siddipet, to allot suitable land to an extent of Ac.7.00 to Ac.8.00 for construction of modern bus station at Gajwel and thereafter, a proposal was sent and finally land admeasuring Ac.3.5 guntas in Sy.No.685 has been allotted for construction of bus stand and an amount of Rs.5 crores was released by the Government of Telangana vide G.O.Rt.No.715, Planning (VI) Department, dated 25.09.2017.

This Court has carefully gone through the documents on record and the undisputed facts reveal that there is no such lake in existence at present. The so-called lake/shikam land in Sy.No.685 of Gajwal village is also having a permanent road bifurcating the land into two pieces and the road is in existence

over the last 50 years. It is true that some of the revenue records reflected the land as shikam land. However, in larger public interest, the conversion of shikam land in Sy.No.685 has already been done by the State of Telangana by an order dated 31.07.2017 and funds have been allocated for construction of bus stand. Much has been argued before this Court by placing reliance upon the judgment delivered by the Hon'ble Supreme Court in the case of **Jagpal Singh** (supra).

In the aforesaid case, the Hon'ble Supreme Court was certainly dealing with Gram Sabha land, Gram Panchayat land and the Hon'ble Supreme Court in para 5 of the judgment has observed that since independence over the country common village land has been grabbed by unscrupulous persons using muscle power, money power or political clout and the land is not left for villagers at all.

In the present case, the situation is altogether different. The land in question has been converted as land for construction of a bus stand in larger public interest, which is going to benefit the villagers as well as Gajwel town. The judgment delivered by the Hon'ble Supreme Court also makes it very clear that the Supreme Court has directed all the State Governments to prepare schemes for eviction of

illegal/unauthorized occupants of Gram Sabha/Gram Panchayat/Poramboke/Shamlat land and to restore them for common use of the villagers/village. It has also been observed that no regularization order should be passed in respect of illegal occupants and regularization should be permitted in exceptional cases where lease has been granted under some Government notification to landless labourers or members of Scheduled Castes/Scheduled Tribes or where there is already a school, dispensary or other public utility on the land. In the present case there is public utility i.e., construction of bus stand keeping in view the expansion of population. The land has been converted by the State Government and funds have been allocated. Therefore, this Court does not find any reason to allow the prayer made by the writ petitioner and the W.P.(PIL).No.301 of 2017 deserves to be dismissed.

Learned counsel for the petitioner has vehemently argued before this Court that the judgment of the Hon'ble Supreme Court has to be complied with.

There is no doubt about it. However, it is clarified that the judgment, which, learned counsel is referring to is not a judgment, but it is an interim order passed by the Court on 21.01.2011. Otherwise also, the present case is not a case

where some land grabbers are encroaching the Government land. A bus stand is being constructed by the TSRTC. The land was converted and it is not at all a lake. There is not a drop of water over the land and a road is already in existence over the last 50 years and the construction, which is being raised, is in the larger public interest.

In W.P.No.5553 of 2018, learned counsel has drawn the attention of this Court towards the judgment dated 27.11.2012 passed in W.P.No.23829 of 1997.

We are in agreement with the aforesaid judgment. The lakes are required to be protected. However, the present case is having a distinguishable feature. The so-called shikam land is bifurcated by a permanent road (bituminous) and the road is in existence over the last 50 years. Not only this, the land, which has been allotted for construction of bus stand, does not have a single drop of water and the conversion has already taken place and the conversion order has been passed by the appropriate authority. Therefore, thus in larger public interest, the smaller public interest and the personal interest have to pave path for the larger public interest.

Resultantly, both the writ petitions are dismissed.

Miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

SATISH CHANDRA SHARMA, CJ

ABHINAND KUMAR SHAVILI, J

21.02.2022
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