
(2000) 09 AP CK 0064

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 7955 and 8650 of 1994

Intellectuals Forum, Tirupathi

APPELLANT

Vs

State of A.P. and another

RESPONDENT

Date of Decision : 28-09-2000

Acts Referred:

Constitution of India, 1950 — Article 21, 51
Environment (Protection) Act, 1986 — Section 3

Citation : AIR 2001 AP 118 : (2000) 6 ALD 435 : (2000) 6 ALT 98

Hon'ble Judges : M.S. Liberhan, C.J;N.V. Ramana, J

Bench : Division Bench

Advocate : Mr. M.V.Durga Prasad, for the Appellant; Advocate-General, Mr. M. Adinarayana Raju SC for TTD and Mr. J. Probhakar, for the Respondent

Judgement

N.V. Ramana, J.—A registered society called "The Intellectual Forum, Tirupathi", has filed these two writ petitions. Writ Petition No.7955 of 1994 is tiled against the respondents-State of Andhra Pradesh and the Tirumala Tirupathi Devasthanams seeking a writ of mandamus directing them not to use the "Peruru tank" for any other purpose than for what it is meant, viz., the storage and percolation purposes, by setting aside G.O. Ms. No.181, Revenue Department, dated 15-3-1991, declaring the same as illegal, arbitrary and violative of Article 21 of the Constitution of India. The second one, Writ Petition No.8650 of 1994, is filed initially against the very same respondents to set aside G.O. Ms. No.84, Revenue Department, dated 28-1-1994 issued by the State of Andhra Pradesh and to direct the respondents to restore the "Avilala tank" situate at Avilala as a percolation tank in its entirety and further direct the respondents not to alienate or assign the "Avilala tank" for any other purposes in future. Subsequently, by order, dated 25-7-1996 in WPMP No.17796 of 1996, the A.P. Housing Board was impleaded as third respondent in Writ Petition No.8650 of 1994.

2. Since the two writ petitions are connected, they are heard together and being

disposed of by this common order.

3. Petitioner Forum is a registered society under the Societies Registration Act with the main object of identification and solution of common problems of the residents of Tirupathi. The petitioner, having noticed that the ground water table at Tirupathi has been fast receding, undertook a scientific search and found that the closure of the various percolation tanks is the reason therefor. Petitioner states that the people in Rayalseema, more particularly of Chittoor District, have no perennial water source and are dependent on rain and ground water for domestic as well as for agricultural operations. However, Tirupathi has a high hill range to its north, which contributes an annual average rainfall of not less than 100 cm, and for the past several decades Tirupathi and surrounding area are having not less than 20 tanks that receive rainwater. These tanks are catering to the needs of the local resident besides the percolation needs, and re-charging the ground water reservoir for agricultural needs. According to the petitioner, as per the Census of 1991, Tirupathi has got 1,88,540 persons as the permanent residents. Quoting the census figures right from 1951 to 1991, the petitioner states that daily about 25,000 pilgrims visit Tirupathi and it may touch one lakh on festive days. Taking the average need of water at 40 gallons per head per day, 170 lakh gallons of water is required for domestic needs alone besides the need of water for other establishments, and a total of 225 lakh gallons of water is required per day to meet all types of need. As against this, only 60 lakh gallons per day is available from Kalyani reservoir constructed in 1978. Out of it, 35 lakh gallons only is being supplied at present and the remaining 25 lakh gallons can be pumped in by providing an additional main line. The rest of the water requirement is met by ground water only. Realising the need of water and the fact that ground water is the only source, many tanks were dug as percolation source. Aviala tank (subject matter of the other writ petition) which is about 300 acres is sought to be closed to develop residential colony for the benefit of the Tirupathi Urban Development Authority. The Peruru tank had a registered ayacut of about 230 acres and it was a minor irrigation source as per the Government records. Petitioner complains that the Government had completely neglected to maintain the Peruru tank and by G.O. Ms. No.181, Revenue Department, dated 15-3-1991, the Government sought to alienate Ac.183.95 cents in Sy. No.546 of Peruru village, which is part of watershed area of Peruru tank, in favour of the 2nd respondent and the 1st respondent intends to alienate the balance land out of Ac.230 acres in favour of TUDA for converting them as house site plots. Petitioner states that the first respondent-Government has no right to close down any percolation sources and disturb the ground water level and create scarcity of water. According to the petitioner, it made several representations to the Government putting forth its grievance and as the impugned G.O. Ms. No. 181, Revenue Department dated 15-3-1991 and G.O. Ms. No.84, Revenue Department, dated 28-1-1994 have been issued by the Government, it filed the present writ petitions challenging the same.

4. The Tirumala Tirupathi Devasthanams -second respondent filed counter in WP

7955 of 1994 contending that the writ petition is not maintainable and the petitioner has to file a civil suit, if at all maintainable and that the TTD is no way responsible for conversion of the tank beds to Tatayya gunta and Tallapaka cheruvu into residential and industrial areas. The land of Tallapaka cheruvu, which actually belongs to TTD, is under unauthorised occupation of some private parties and legal action is being initiated by the TTD for taking possession of the land of Tallapaka Cheruvu. With regard to Ramachandragunta, the Endowments department has been addressed for alienating the entire land in favour of TTD duly canceling the earlier alienation orders issued in favour of TUDA for construction of shopping complex. The TTD proposed to maintain the Rarnachandragunta as pushkarani of Lord Rama Temple for conducting the Float Festival as was being done in the olden days. Regarding the conversion of other tanks into residential areas, the authorities of Revenue Department, TUDA and Tirupathi Municipality are addressed. It is stated that it is a fact that the land to an extent of Ac. 150-00 in Peruru cheruvu area in survey No. 546/3 has been alienated in favour of TTD in lieu of the land given to Sri Padmavathi Mahila Viswavidyalayam by the TTD as per G.O. Ms. No.181, Revenue (ASN-4) Department, dated 15-3-1991. The possession of the said subject land was taken over by the TTD from the MRO, Tirupathi (Rural) on 19-3-1993, the tank was found to be useless since there was no water source to the tank, the Government has alienated the same in favour of TTD for its developmental activities. The tank lost its water sources long back and it is dry and barren for the past two decades, and the tank is not useful at present or in future for storage of water and percolation purpose.

5. The second respondent in WP No.8650 of 1994 - Tirupathi Urban Development Authority filed counter stating that the domestic water supply needs of Tirupathi town are met by Kalyani Dam and there is a proposal to increase the supply by 60 gallons per day; Tirupathi Municipality, Public Health Department and the Irrigation Department are taking various schemes to increase the supply of water, and it is not the duty of the petitioner Forum to renovate the abandoned and useless tanks. The tanks are no more in existence and they became plain land. The Government in G.O. Ms. No.691, Revenue (Assignments-IV) Department dated 10-7-1989, issued orders alienating Ac 90.00 in Sy.No. 18/3 of Avilala Village (which is part of Avilala tank) to A.P. Housing Board on payment of Rs.90 lakhs for construction of houses under Rental Housing Scheme for Government Employees. The Housing board obtained permission from TUDA and formed roads at a cost of 150 lakhs. Before alienating the land, Government have obtained the technical opinion of Executive Engineer of Irrigation Department and also the report of the District Collector, Chittoor, who stated that the tank is dry and full of phosphoric growth. Though Avilala tank has a registered ayacut of Ac. 259.01 cents, on an average about Ac.40-00 per year was being irrigated with the aid of wells and the rest of the ayacut is fallow and there is no supply of water from Avilala tank. Since the land was already handed over to Housing Board and levelled, most of the agricultural land around the tank

has been converted into residential use by duly obtaining permission from TUDA. Many of the registered associations have made their lay out plans duly taking the existing role played by the Housing Board as approach roads to their sites. The District Co-operative Milk Diary has stated an industry adjacent to Sy No.18 with a huge cost by taking the approach road of the Board in Sy.No.18/1 of Avilala and hence the question of providing water supply to agricultural purpose does not arise. The collector in his letter dated 14-7-1992 informed the Government that they ayacutdars of the tank have also given their consent for abandoning the tank and to treat the ayacut as a dry land since the tank is not getting water.

6. The extent of Ac 187-00 of land in Sy.No.18/1 of Avilala village was classified as Avilala tank poramboke and it was abandoned in the year 1992. The tank bund was bulldozed and the entire area was levelled. The land lies within the Avila Gram Panchayat, which is adjoining Tirupathi Municipality limits. The tank bed was very shallow extending to an area of Ac 180 while the actual submersion being about Ac 67. As per the particulars available, the ayacut under this tank is almost nil for the past 4 to 6 years. The cultivation particulars of ayacut lands under this tank reveals that there was no land being irrigated by the tank from 1395 (i.e., 1984). The tank in question, as could be seen from the permanent "A" register (Re-settlement Register) was to be fed by (1) Ramayapalli Kasam Kalva, (2) Kasam Kalva of Vedanthapuram Agraharam, (3) drainage water of Thummalagunta wet fields and (4) by Nadim Kalva, which are almost defaced and as such there is scope for accumulation of water in the tank. It is also observed from a well about sixty feet depth located on southwest corner of the land that no water exists in the well. The foreshore of the tank is almost plain. It is an abandoned tank and the tank is also not receiving any supply of water due to closure of supply channels after the construction of Kalyani Dam reservoir. Proposal for abandonment of the tank were submitted by the Revenue Divisional Officer, Tirupathi with reference to Collector's No.B1/7089 88 dated 17-9-1988 in his letter No.Roc.G/4070/92 dated 7-7-1992. A notice was published in the village and no objections were received. As the land is classified as tank poramboke, technical opinion from the Executive Engineer, Irrigation Department was obtained and the Executive Engineer opined that there is no objection for alienation of the said land. The opinion is available in the Collectorate reference No. 81/14157/85. As per the report of the Revenue Divisional Officer, Tirupathi, submitted in his letter Roc.No.G/2016/88 dated 6-9-1988 the Avilala Gram Panchayat in its resolution dated 14-8-1988 has resolved to alienate an extent of Ac.90 in Sy. No. 18/3 (carved out from 18/1) of Avilala Village in favour of A.P. Housing Board. In the above circumstances, the Government has alienated Ac.90 of land in Sy.No.18/3 carved out from Sy/No.18/1 in favour of A.P. Housing Board for construction of houses under Rental Housing Scheme for Government employees vide G.O. Ms. No.691, Revenue (Assignments-II) Department, dated 10-7-1989, and the A.P. Housing Board has leveled the land by bulldosing. The District Collector, Chittoor, in his letter No.B.1/ 15246/90 dated 14-7-3992 addressed to the Secretary to Government, Revenue Department, has informed

that the ayacutdars have also given their consent for abandonment of the tank in question and to treat the ayacut as dry and since the tank is not getting any water. The Housing Board after taking possession of the land has levelled the site and taken up infrastructure facilities like B.T. Roads, bore wells, electrical lines etc., at a cost of 1.25 crores rupees approximately. The A.P. State Electricity Board has also established a substation in an area of Ac.1.25. The A.P. Dairy is coming up on western side of land under reference at a cost of Rs.4.00 crores taking approach from the already laid out roads in Sy. No.18/1 of Avilala. The Government has alienated as extent of Ac.90 of land to A.P. Housing Board and Ac. 1.12 to APSEB and Ac. 5.00 towards compensation for private lands acquired for approach road. There remains Ac.96 of land. The Revenue Divisional Officer, Tirupathi, in his letter No.G/5234/92 dated 16-9-1992 addressed to the District Collector, Chittoor, has informed that the balance of land available can be better utilized by handing it over to various agencies for development purposes. The Government in G.O. Ms. No.84, Revenue (Ass.IV) Department, dated 28-1-1994 have alienated the land as stated hereunder: (a) out of Ac.90 handed over to A.P. Housing Board, Ac. 15.00 to be kept reserved for Government buildings/institutions; and (b) after providing Ac 1.12 of land required by the A.P. State Electricity Board for the existing substation and Ac.5.00 to be given in compensation for private lands acquired for approach roads, the balance of Ac. 90 to be handed over to TUDA in turn would reserve Ac.25 for Government purpose. As per the orders of the Government, MRO, Tirupathi (Rural) has handed over physical possession of Ac.65.19 to Tirupathi Urban Development Authority, Tirupathi on 18-4-1994.

7. The 2nd respondent - TUDA in WP 8650 of 1994 filed additional counter-affidavit on 1-8-2000. It is stated that the Avilala tank has fallen into disuse long ago and the entire area has been levelled, roads were formed, traffic islands and electrical lines were laid in the year 1992 by spending 1.50 crore rupees. The land was used for conducting plenary sessions. To meet the power supply requirements of Rajeevnagar and surrounding areas, the power sub station was also erected in the year 1992 by the then APSEB. No water sources are now available to replenish the defunct tank and the tank is not receiving any supply of water due to closure of supply channels such as Ramayampalli Kalva, Kasam Kalva, Kalyani Kalva, after construction of Kalyani dam. The ayacut land was also gradually converted into residential layouts over a period of time. Hence there is no source of water for the existing tank and there is no ayacut presently and no land is being cultivated. Kalyani dam was constructed in the year 1978 and the full capacity of the reservoir is 910 Mc.Ft. At present, 25 to 30 lakh gallons per day is being drawn from Kalyani reservoir and 495-mc.feet. is sufficient to meet the requirements of the Tirupathi town for 900 days at the present drawing rates. In addition to Kalyani reservoir, Government have also taken up and completed Telugu Ganga water supply scheme at the cost of Rs.68.99 crores and stated functioning from 12-8-1999 by drawing water directly from Kandaleru - poondi canal and also constructed reservoir at Kailasagiri village, having summon

storage capacity of 210-mc.ft, which is a perennial source of water supply. In addition to the said projects, the Tirupathi Municipality is maintaining water tanks at Narasimhatheerdhan and tank at Marri Chennareddi Colony as water reservoir and percolation tanks. The water in these tanks is not only being used for supply of drinking water of that part of the town by pumping to elevated reservoirs but also these two tanks are acting as percolation tanks recharging the bore wells in the nearby localities. Therefore separate projects have been undertaken and completed for arranging water supply for residents of Tirupathi town. The environment is nowhere adversely affected by the developments taking place and no public interest is adversely affected. Balaji dairy was constructed with financial assistance from National Dairy Development Bank on the western side of Rajeevnagar by taking approach road from existing road network in Rajeevnagar. On the northern side of Rajeevnagar, Vaikunthapuram Housing Colony has been developed by the TTD, contiguous to Rajeevnagar and 80 wide road is formed which is passing from Vaikunthapuram to Rajeevnagar layout. The TUDA in order to relieve the congestion in Tirupathi town and to regulate the massive urban growth in a planned direction, proposed to take up the development of satellite townships all around Tirupathi with self-sufficient pockets of development. Rajeevnagar is one such major satellite township proposed to be developed by the TUDA.

8. The 3rd respondent-Housing Board in WP 8650 of 1994 filed counter-affidavit stating that the Housing Board paid 90 lakh rupees at the rate of one lakh rupees per acre and spent a sum of 88.43 lakhs towards development of the land so far and further development is thwarted due to pendency of the writ petition. The area around the land in question is fully developed and several colonies such as Judicial Employees" colony, P.R. Engineer"s colony and Balaji Dairy, and so the land in question cannot be used as reservoir.

9. The 3rd respondent also filed additional counter-affidavit on 26-7-2000 stating that the Housing Board got prepared a rough sketch plan showing the details of the topography and the developments of the land in question. It is stated that the Housing Board levelled the entire 187 acres of land in 1992 and the AICC Plenary Session was held at the same venue during 1992 and by then itself infrastructure like approach roads and internal roads were formed and drinking water lines, street lights besides Rajiv Gandhi statue were installed. Later, the Government issued G.O. Ms. No.84, Revenue Department, dated 28-1-1994 under which an extent of 75 acres of land was alienated in favour of APHB and the Revenue Department also handed over possession of the land to Housing Board on 12-3-1992 and so there is no possibility to storage of water at present as the entire tank bund was removed and levelled. No water was being stored in this tank earlier. Several residential colonies have come around the land in question.

10. In Writ Petition No.8650 of 1994, four implead applications are filed viz., WPMP No.6181 of 1997 by Avilala Rajeev Nagar Housing Board Applicants"

Welfare Association and another; WPMP No.23773 of 1997 by one Vuddagiri Subbulu; WPMP No.23774 of 1997 by one Payyavula Gurunadhan; and WPMP No.23775 of 1997 by one Doraswamy Srinivasan, to implead them as party respondents to Writ Petition No.8650 of 1994. On behalf of the applicants in the above implead applications, none appeared and there is no representation. Hence, we dismiss the above four implead applications.

11. Heard the learned Counsel for the petitioner as well as the learned Counsel for the respondents.

12. The main contention of the petitioner is that the abandonment of the tanks of Peruru and Avilala and allotting the land to the Housing Board, APSEB and the TUDA is illegal and contrary to the provisions of Article 51(A)(g) of the Constitution of India and violative of several judgments of the Supreme Court.

13. Counsel further contended by allowing the respondents to convert the said tank-bed land into residential colonies, the same will affect not only the environment but also health of the residents. Because of the abandonment of the tanks, valuable water source is dried away and there is no water available to the residents of Tirupathi town. The people are now forced to use contaminated water and several people are suffering diseases concerning bones, teeth and skin. Counsel for the petitioner tried to impress the Court by reading the affidavits filed by medical experts.

14. The third contention of petitioner's Counsel is that the doctrine of "public trust" is part of the Indian law and it should be recognised and implemented.

15. On behalf of the respondents, the teamed Advocate-General contended that the tanks in question are ceased to exist long back and the Government alienated the land to different Government organizations on payment of the cost of the land keeping in view the congestion of Tirupathi town and to develop a well planned lay out colonies in the interest of public. He submitted that the respondents have not violated any law and no public interest is involved in these writ petitions.

16. Now, the question for consideration in these two writ petitions is whether the alienation of the tank bed lands in favour of TTD, TUDA and APHB by the Government is correct or not. If so, what will the environmental or other consequences that will ensue to the general public of Tirupathi town. Is there is any illegality or violation of any Act or law by the respondents. Whether any relief can be granted to the petitioner in these writ petitions.

17. In support of his contentions, petitioner's Counsel relied upon certain judgments. Before examining the judgments, the facts which are not in dispute, may be noticed. It is no doubt true, that the tanks of "Peruru" and Avilala" were in existence once upon a time. It is common knowledge now that may big tanks are becoming dry for several reasons and also not getting sufficient water supply and becoming plain lands. A perusal of the averments in the counter affidavit and

the photographs filed by the respondents indicate that even though the said tanks were once upon a time be good tanks, but they have now become dry and plain lands. The reasons so many, there is no sufficient or adequate water source to the said tanks before they became dry. The entire tank-bed land area is no more useful for the purpose of storing water. The Government after considering the needs of Tirupathi town, keeping in view the traffic congestion and development of town, thought fit to construct well-planned colonies by using the said land. The Government, after obtaining technical opinion from the Executive Engineer, Irrigation, necessary information from the District Collector, Chittoor and the MRO, Tirupathi, came to the conclusion that the tank lands are not useful for the purpose of maintaining the tanks, and alienated the same to the Housing Board and the TUDA and TTU for a valuable consideration. It happened way back in 1991 and 1992 itself. Later, the Housing Board and the TUDA levelled the land, laid B.T. roads and provided with electricity and water supply. Considerable amount was already spent on the above said development activity. In view of the above facts and circumstances, the Government cannot restore back the tanks now.

18. The record reveals that the ayacut of the tanks became residential colonies in view of its close proximity to Tirupathi town. Benefiting with the physical expansion, and the increase in the population, of town, the said lands were converted into residential colonies. The Government, after considering all the aspects only, to cater the needs of developing Tirupathi town, allowed the Housing Board to develop a housing colony. We cannot say that the Government, for the purpose of developing the housing colonies only, abandoned the tanks and converted the tank-bed lands into housing colonies. The fact remains that because the tank bed lands became barren and useless, the Government permitted conversion thereof as housing colonies. The argument of the petitioner's Counsel that the Government allowed conversion of the tank-bed lands only for the purpose of developing housing colonies cannot be accepted.

19. Article 51-A envisages fundamental duties of the citizens of India. Clause (g) thereof says that it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have a compassion for living creatures. No doubt, it is the duty of every citizen to protect the environment. Here, no citizen is violating the fundamental duty. It is the respondent-State, in the general interest of the public, for creating a good environment, for providing a better living and to make use of the abandoned wasteful land, alienated the tank-bed lands in favour of Governmental agencies on receiving the price of the land. The action of the respondents will not offend Article 51-A(g) of the Constitution of India.

20. The decision of the Supreme Court in *M.C. Mehta v. Union of India*, (1997) 11 SCC 312, relied on by petitioner's Counsel has no application to the facts of the case on hand. That was a case taken up suo motu by the Supreme Court, on the basis of a news item appearing in "Indian Express daily" regarding falling

groundwater level in Delhi city, under the Environment (Protection) Act, 1986. The Supreme Court gave certain directions regarding the immediate steps to be taken for regulating indiscriminate digging of bore wells and withdrawal of underground water in the country. The Central Government was directed to constitute a Central Groundwater Board as an Authority u/s 3 of the Environment (Protection) Act, 1986. The said decision is no way helpful to the case on hand.

21. The second "decision relied upon by petitioner"s Counsel is Dr. G.N. Khajuria v. Delhi Development Authority (1995) 5 SCC 762. In that case, the land reserved for a park in a residential colony was allotted for running a nursery school, by the Delhi Development Authority and certain constructions were already made for the school. Considering the provisions of Section 8(2)(d) of the Delhi Development Act, 1957 and Rule 4(3)(g) of Delhi Development (Master Plan and Zonal Development Plan) Rules, 1959, the Supreme Court held that the allotment of land, which is earmarked for a park, for construction of a nursery school was illegal and the constructions were unauthorised. The Supreme Court directed demolition of the structures constructed by the concerned for the purpose of nursery school. In the case on hand, there is no such illegal allotment by the Government, and moreover we are upholding the allotment of the tank-bed lands in favour of Governmental agencies for a price. So, this decision has no application to the facts of the case on hand, and we reject the argument of the Counsel for petitioner that we should direct restoration of the two tanks by excavating and digging the roads already laid. We should not be oblivious to the fact that the activity of laying/developing planned colonies is also part of protection of environment.

22. The third decision relied on by the petitioner"s Counsel is M.I. Builders Pvt. Ltd. Vs. Radhey Shyam Sahu and Others, . That was a case arising from the Allahabad High Court. In that case, a Division Bench of Allahabad High Court held that the action of the Luknow Nagar Mahapalika, permitting MI. Builders Pvt. Ltd, to construct underground shopping complex in the famous "Jhandewala Park" at Lucknow was illegal and arbitrary and a writ of mandamus was issued to the Mahapalika to restore back the park in its original position in the interest of general public and uses of the park. Aggrieved by the said judgment, the Mahapalika filed appeal in the Supreme Court. The Supreme Court dealt with the provisions of Sections 128, 129, 131 and 133 of the UP Nagar Mahapalika Adiniyam 1959, the UP Urban Planning and Development Act, 1973, Ur Regulation of Buildings Operations Act 1958 and UP Parks, Playground and Open Spaces (Preservation and Regulation) Act, 1975. Considering Section 128 of the Adiniyam, and referring to the celebrated ruling on the doctrine of "public trust," , popularly known as "Span Resort case" M.C. Mehta Vs. Kamal Nath and Others, , the Supreme Court ruled that the doctrine of public trust is part of the law of the land. In M.C. Mehta Vs. Kamal Nath and Others, , Supreme Court, observing that doctrine of "public trust" is part of the law of land, issued various directions even canceling the lease granted in favour of the Motel and directing the Motel to pay compensation by way of cost of resolution of the environment and ecology of the

area concerned. Coming to the decision in M.I. Builders" case (supra), the Supreme Court, no doubt, cancelled the lease granted for construction of underground shopping complex, holding the same to be violattve of the doctrine of public trust, in the area relating to the historical park. In is true that the Supreme Court further directed demolition of the constructions made and directed restoration of the historical park, observing that the Mahapalika had violated the Master Plan. The facts in the instant case are entirely different.

23. As already stated by us supra, in this case the Government alienated that barren and useless land in favour of governmental agencies such as TUDA, Hosing Board and the TTD for valuable consideration that too for a valid and good reason, viz., construction of housing colonies for Government Employees and general public. This is not a case of alienation of land in favour of any third party or private citizens for the purpose of a commercial venture. No mala fides are attributed to the respondents in effecting such alienation. The case of the petitioner is that the action of the Government alienating the tank bed lands for construction of housing colonies will result in loss of drinking water source and it may lead to environmental and health hazards to the citizens of Tirupathi town.

24. It is clear from the record that as long back as in the year 1984 itself, the entire land covered by the tanks has become barren and there is no water supply to the said tanks, and consequently the agricultural lands, which are depending upon the said tanks, were already converted into housing colonies. In the said circumstances, the Government after considering the technical feasibility report given by the officials of the Irrigation Department, the ground realities, and the assessment made by the District Collector as well as the RDO found that the tank bed lands are no more useful for the purpose of storing water. The lands have already become dry and bushy. The other factor, which weighed with the Government, is the growth of Tirupathi town. To provide a better environment and to develop a planned satellite township with proper roads and amenities, the Government have alienated the lands in favour of Governmental agencies such as TUDA and A.P. Housing Board (which are not private organisations) for valuable consideration for development of housing colonies. The A.P. Housing Board is meant for housing development activity in a planned manner to the citizens of the State under the Housing Board Act. The constitution of the very Housing Board is for providing housing facilities to different sections of the society at a reasonable rate. The Tirupathi Urban Development Authority is meant for the overall development of Tirupathi town and surrounding areas. They are the most qualified authenticated organisations, which can provide or give better plans for the development of Tirupathi and surrounding urban area. The detailed counter-affidavits and the latest additional counter-affidavits filed by the respondents indicate that after obtaining technical feasibility report and conducting proper survey only the Collector and other authorities suggested to the Government for alienation of the tank bed lands. Therefore, this Court should not substitute its opinion in place of the technical opinion given by the concerned Experts on the subject. We do not find any illegality in the action of the

Government in this case. No doubt, the wishful thinking and the desire of the petitioner-Forum that the tanks should be there and the old glory of the tanks should be continued, is laudable. But, the ground realities are otherwise. Now a days, because of poverty and lack of employment avenues, migration of people from rural areas to urban areas is a common phenomenon. Because of the limited resources and limited infrastructure of the towns, the towns are becoming slums. So, the Government properly considered, according to us, all the aspects of the matter and the well-planned development of Tirupathi town while alienating the tank bed lands in favour of some Governmental agencies for valuable consideration. We cannot, in the guise of protection of environment, prevent the Government from proceeding with proper planned development of Tirupathi town. Protection of environment and development of town planning should be balanced. If we do not permit the Government to use the lands in question properly, ultimately it will go into the hands of land grabbers and other anti-social elements. If this tanks bed lands are not used properly, the lands will become dumping grounds. It is common knowledge that now a days the anti-social elements are taking possession of unprotected Government lands and covering them into slum and making money. The only direction that can be given in these two writ petitions is that the TTD, TUDA and Housing Board shall take proper care of the lands in question by planting trees and use the land for the purposes for which it was allotted. So far as the land allotted to the TTD in WP 7955 of 1994 is concerned, it is clear from the counter filed by the TTD that after construction of Kalyani dam for the purpose of augmenting water supply, the said land became dry and barren for the last two decades. There is no source of water now to the Peruru tank and it is not possible to store water in Peruru tank. In fact the land of 150 acres of Peruru tank in Sy.No.18 has been alienated in favour of TTD in lieu of land given to Sri Padmavathi Mahila Viswa Vidyalam. The TTD is a well-known world wide renowned organisation. We have no doubt that it will take adequate care to protect the environment and ecology. The TTD is known for its contribution to the protection of environment and prevention of pollution. We have no doubt that the TTD will take adequate steps to protect the environment.

25. Counsel for the petitioner also relied on the decision of the Supreme Court in Bangalore Medical Trust Vs. B.S. Muddappa and others, , to support his contention that the tank bed lands should not be converted for some other purpose, other than storing water. In that case, the Supreme Court considering the provisions of Bangalore Development Authority Act, 1976 held that the open space reserved for public park in the development scheme duly approved and published cannot be converted into a civil amenity site for the purpose of hospital/nursing home and cannot be allotted to private person or body of persons for that purpose. The Supreme Court ruled that while taking administrative steps and exercising discretion, the administration should not act arbitrarily, and should not take decisions with undue haste "disregarding the procedure and in violation of law. No doubt, it is true, when a particular place is

meant for a particular purpose, it cannot be converted or cannot be alienated for a different purpose. The case on hand is not such one. The facts are very clear. The decision in this case is how to make use of the available abandoned barren lands. Whether such decision is in violation of any procedure or against public interest or affects the ecology or any rights of the petitioner is the question. As held by us, *supra*, the decision was taken in the interest of the public and to promote a clean and hygienic environment. There is no illegality or irregularity in the said decision, that too when the land was alienated in favour of Governmental organisations for a valid consideration for proper utilisation. We do not find any illegality or irregularity in the action of the respondents.

26. Subject to the above observations/ direction, we dismiss both the writ petitions. No costs.