

(2024) 02 J&K CK 0013

In the Jammu And Kashmir High Court

Case No : Others Writ Petition No. 1070 Of 2017

Raja Sartaj Ali Khan

APPELLANT

Vs

State Of Jk And Others

RESPONDENT

Date of Decision : 12-02-2024

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2024) 02 J&K CK 0013

Hon'ble Judges : Rajesh Sekhri, J

Bench : Single Bench

Advocate : Rizwan Bhat, Jahangir Dar

Final Decision : Dismissed

Judgement

Rajesh Sekhri, J

1. Petitioner claims to be resident of village Gopalpora Tehsil Mattan District Anantnag and being the resident of said village and interested in the welfare and wellbeing of his neighborhood, he has invoked writ jurisdiction of this Court under Article 226 of the Constitution of India, for preservation and protection of a Pond in Punjabi Mohallah Gopalpora, falling on the land measuring 03 kanals 08 marlas bearing Survey No. 277, which is stated to have plantation of willows and poplar trees around.

2. It is case of the petitioner that aforesaid pond was created long back for storage of the rain water and drain water to be used by the villagers for cattle and domestic birds and for irrigation of kitchen gardens especially when Martand Canal turns dry during the months of October to May.

3. It is also case of the petitioner that consequent upon few communications addressed by the villagers, Tehsildar Mattan visited the spot and made a report to the Deputy Commissioner Anantnag on 24.06.2017, whereby he not only admitted the existence of pond in question on the subject land bearing Survey No. 277 of Gopalpora Mattan but also submitted that the said land is recorded as

State Land with various trees around it and villagers of Gopalpora are dependent on the said pond.

4. Allegation of the petitioner is that respondent-Health Department has started filling the pond in question with a mala fide intention to construct a health centre over it. It is further alleged by the petitioner that respondent i.e., Deputy Director Planning and Statistics Health Services Srinagar, vide his letter No. DHSK/Plg/2017/SPIP/3101-17 dated 29.03.2017, has requested Managing Director J&K Project Construction Corporation Srinagar, to get the DPRs item-wise prepared for various health institutions as per approved drawings to be furnished to the Directorate in triplicate duly vetted by the competent authority and the health institution to be constructed in the village in question figures at S.No. 3, of the said letter.

5. Petitioner has assailed the aforesaid communication dated 29.03.2017, primarily on the ground that no construction can be raised on the State land.

6. Status report stands filed on behalf of respondents 2, 4, 5, 12 and 15, which reveals that a detailed report was sought from Tehsildar Mattan, which transpires that a team of officials headed by Naib Tehsildar concerned visited the spot, perused the revenue records with respect to survey no.277 measuring 03 kanals 08 marals, which is recorded as 'Gair Mumkin Talab', no encroachment was found on the spot and water was found stored in the pond in question. It was also reported that as per the available record in Patwar Srishta, no shajra khasra for construction of any project has ever been submitted.

7. It is rather, contention of the respondents, that in order to restore the pond in question to its pristine glory, the Additional Deputy Commissioner Anantnag vide office letter dated 21.02.2023 has directed Assistant Commissioner Development Anantnag to develop/rejuvenate the said pond under "Mission Amrit Sarovar" Scheme for the financial year 2023-24, so that the said pond may be used to store rain water for village cattle and domestic birds and also for irrigating adjacent kitchen gardens especially when the Martand canal turns dry.

8. It is apparent from the status report filed by the respondents that respondents have not initiated any process for construction of any health institution in or around the pond in question. It appears that petitioner has filed this petition on mere apprehensions, which on the face of it is not maintainable. There is nothing even in the impugned communication to suggest that the proposed health centres are intended to be raised on the land in question. Hence the present petition being devoid of any merit, is, dismissed along-with all connected applications. Interim direction, if any, shall stand vacated.