

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, PRINCIPAL
BENCH, AT NEW DELHI
ORIGINAL APPLICATION (O.A.) NO. 126 OF 2025**

IN THE MATTER OF:

Somveer Singh

...Applicant

Versus

State of Uttar Pradesh & Ors.

...Respondents

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Through



Date 28.01.2026

Place New Delhi

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Enrolment No. D/13653/2022

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**OBJECTION/REJOINDER ON BEHALF OF APPLICANT IN RESPONSE
TO REPLY FILED BY DISTRICT MAGISTRATE, MEERUT, UPPCB AND
NATIONAL WETLAND IN COMPLIANCE OF THE ORDER DATED
01.04.2025 PASSED BY THIS HON'BLE TRIBUNAL.**

Most Respectfully Showeth:

1. That this Rejoinder is being filed by the Applicant to the reply affidavit dated 27.10.2025 that has been filed on behalf of the District Magistrate, Meerut, UPPCB dated 25.07.2025, and Ministry of Environment, Forest & Climate Change (MoEF&CC) dated 28.07.2025 in O.A. 126 of 2025, filed by the Applicant before this Hon'ble Tribunal.
2. At the outset, it is submitted that the contents of the reply dated 27.10.2025, 25.07.2025 and 28.07.2025 have not been able to provide any meaningful response to the illegal encroachment on the pond situated at Khasra No. 440,

measuring an area of 1.442 hectares, located in Gram Panchayat Dadri, Development Block Sardhana, Tehsil Sardhana, District Meerut, Uttar Pradesh.

3. It is submitted that the pond is a crucial ecological asset, serving as a ground water recharge zone, a biodiversity support system, and a primary water storage source for the local population. Recognizing its significance, the Government of Uttar Pradesh, through the Ground Water Department, allocated Rs. 49.90 lakh for the cleaning, desilting, and restoration of the pond to enhance water conservation and environmental sustainability. However, despite the allocation of funds, the illegal encroachments by influential individuals in the village have severely hampered the project's implementation, leading to continued environmental degradation and health hazards for the local residents.

4. That Hon'ble this Tribunal vide its order dated 01.04.2025 observed that:-

“2. Allegation of the applicant is that pond area has been encroached upon by private persons and in spite of the action and order of eviction, encroachment has not been cleared which has resulted into environmental degradation and obstruction in rejuvenation of the pond and depletion of ground water recharge capacity.

3. Learned Counsel for the applicant referring to the orders filed from page no.32 onwards passed by Tehsildar has submitted that Tehsildar has identified as many as 21 such unauthorized and illegal constructions on the pond area and has passed the eviction order and has also levied the compensation but till now no action has been taken. He has further referred

to communication dated 09.11.2022, Block Development Officer sent to Sub-Divisional Magistrate, Sardhana, referring to the proposal for cleaning the pond in khasra no. 440 area of 1.442 hectares and as also requesting demarcation of the pond.

4. Learned Counsel for the applicant submits that though demarcation of the pond has been done but eviction action has not been completed. He has further referred to the satellite image on page no. 109 to show the area and location of the pond.

5. OA raises substantial issues relating to compliance of environmental norms “

5. That the Applicant most respectfully submits the present rejoinder/objections to the replies filed by the above said Respondent authorities. The replies, though voluminous, **substantially admit the core grievance of the Applicant**, namely that the land in question is a **recorded pond (Talab)** and that **encroachments exist thereon, yet no effective, time-bound or result-oriented action has been taken** till date.
6. That the replies disclose a classic case of **administrative delay, shifting of responsibility, and policy excuses**, while the pond continues to remain encroached, polluted and ecologically degraded, thereby defeating the very purpose of approaching this Hon'ble Tribunal.
7. That mere initiation of proceedings, issuance of letters, preparation of estimates, or passing of tenders **cannot be equated with compliance**, unless the encroachments are physically removed and the pond is actually restored on the ground.

**REJOINDER TO THE REPLY OF DISTRICT MAGISTRATE,
MEERUT**

1. That the Applicant submits that the District Magistrate has **unequivocally admitted** that:
 - i. The land bearing **Khasra No. 440** admeasuring **1.442 hectares** is **recorded as a pond**, and
 - ii. **Encroachments by private individuals exist on the said pond land.**
2. That while proceedings under **Section 67(2) of the U.P. Revenue Code, 2006** have been stated to be initiated against encroachers, the reply itself demonstrates that **no actual eviction has been carried out**, even after clear findings and demarcation.
3. That the justification sought to be taken on the ground that the encroachers are residing for several years or are landless persons **cannot override constitutional and environmental mandates**, particularly when the land in question is a **water body**, which is required to be protected under:
 - i. Article 21 of the Constitution of India
 - ii. Public Trust Doctrine
 - iii. Wetlands (Conservation and Management) Rules
 - iv. Repeated judgments of the Hon'ble Supreme Court and this Hon'ble Tribunal.

4. That it is respectfully submitted that **no Government Order or welfare policy can legalise or perpetuate encroachment on a pond**, especially when the same directly affects groundwater recharge, flood mitigation, biodiversity and the right to a clean environment of villagers.
5. That the reply itself discloses that **eviction orders and compensation proceedings are under process**, and therefore, there is **no legal impediment** for the authorities to proceed with eviction in a phased and lawful manner, while simultaneously ensuring rehabilitation through separate welfare schemes.
6. That the Applicant submits that the **continued inaction**, despite admitted facts, amounts to **wilful neglect of statutory duties**, warranting strict directions and monitoring by this Hon'ble Tribunal.

REJOINDER TO THE REPLY OF UPPCB

1. That the Applicant submits that the UPPCB reply **fully corroborates the Applicant's allegations** regarding pollution and degradation of the pond.
 1. That the inspection report clearly records:
 - Dumping of plastic and solid waste
 - Disposal of domestic effluents into the pond
 - Extremely high **BOD, COD and Total Coliform levels**, rendering the water body severely polluted and unfit for ecological sustenance.
3. That the Applicant submits that the UPPCB has merely issued **advisory instructions** to the Block Development Officer, without ensuring:

- Fixation of responsibility
 - Timelines for compliance
 - Enforcement or follow-up action
4. That the UPPCB itself has recommended **desilting and encroachment removal**, which clearly establishes that **without eviction, rejuvenation is impossible**, yet no coercive steps have been taken to ensure implementation.
 5. That the Applicant submits that issuing letters alone, without ensuring execution on the ground, **defeats the mandate of environmental governance** and reduces statutory oversight to a paper exercise.

REJOINDER TO THE REPLY OF MoEF&CC (NATIONAL WETLAND AUTHORITY)

1. That the Applicant submits that the reply of the National Wetland Authority is **evasive and non-committal**, and fails to appreciate the ground reality that the pond is **already identified, polluted, encroached and under imminent threat**.
2. That the Authority has failed to take **proactive steps** for:
 - Declaring and notifying the wetland
 - Issuing binding directions for protection
 - Coordinating with district authorities for immediate action

3. That the Applicant submits that once a water body is shown to exist in revenue records and inspection reports, **the duty to protect it arises automatically**, irrespective of procedural formalities.
4. That the Applicant submits that **tender for rejuvenation of the pond has already been passed, and eviction proceedings have also been initiated**, yet due to lack of coordination and administrative will, **both processes remain stalled**, causing continuous environmental harm.
8. That furthermore, The Hon'ble supreme Court in the case of *HINCH LAL TIWARI vs KAMALA DEVI AND ORS. Appeal (civil) 4787 of 2001* has observed that the land in question was characterized as a pond (talab), which had vested in the State and was meant for public utility, ecological balance, and environmental protection. It noted that the depot's characteristic as a pond varied during rainy seasons, with some portions still retaining the pond's nature. The court emphasized that no part of such a pond could be allotted for private construction or habitation because these resources are vital for maintaining ecological balance and serve the public interest. The court also highlighted that ponds are valuable community resources that should be preserved and developed for public benefit, rather than being converted for private use. True copy of the judgment is annexed herewith as **Annexure A.**
9. That Further The Hon'ble Supreme Court in the case of *Jagpal Singh & Ors. vs State of Punjab & Ors. CIVIL APPEAL NO.1132 /2011 @ SLP(C) No.3109/2011* has observed that land recorded as a pond must not be allowed to be allotted or encroached upon for construction or private use. It emphasized that ponds are traditional rainwater harvesting structures built for the community's benefit, serving crucial functions like water storage for

droughts, cattle, and sanitation. The court highlighted that over the years, many ponds have been filled and built upon by individuals seeking personal gain, which has contributed to water shortages in the country. The court ordered the respondents to vacate the pond area and restore it to the Gram Panchayat, reinforcing that such water bodies are protected community assets that should not be reclaimed for private purposes. True Copy of the Judgment is annexed herewith as **Annexure B**.

10. That delay in removal of encroachments is allowing:

- Further solid waste dumping
- Continued discharge of untreated sewage
- Irreversible damage to the pond ecosystem

11. That every passing day of inaction **aggravates environmental loss**, making restoration more difficult and costly.

PRAYER

In view of the above submissions, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to:

- a) Direct the Respondent authorities to **remove all encroachments from the pond land within a fixed and non-extendable timeline;**
- b) Direct immediate execution of the **rejuvenation and restoration work**, strictly in accordance with environmental norms;

- c) Direct constitution of a **joint monitoring committee** with periodic compliance reports;
- d) Fix **personal accountability** of officers for delay and non-compliance; and
- e) Pass any other order(s) as this Hon'ble Tribunal may deem fit in the interest of justice and environment.

Through



Date 28.01.2026

Place New Delhi

Tarun Cummra (ADVOCATE)

Enrolment No. D/13653/2022

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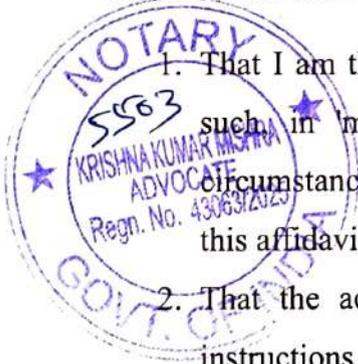
State of Uttar Pradesh & Ors.

...Respondents

AFFIDAVIT

I, Somveer Singh, aged about 41 years, S/ O Chetram Singh, R/o Dadri, Meerut, Dadri, Uttar Pradesh - 250223, presently at New Delhi, do hereby solemnly affirm and state as follows:

1. That I am the applicant in the aforesaid Original Application (OA), and as such, in my said capacity, I am well conversant with the facts and circumstances of the case leading to the present OA and competent to swear this affidavit.
2. That the accompanying reply has been drafted by my counsel on my instructions. The contents of the accompanying reply are true and correct to my knowledge.
3. That I have read over the contents of the accompanying reply and the same is true and correct and drafted on my instruction.





Somuesh Singh
 DEPONENT

Verification

28 JAN 2026

Verified at New Delhi on ___ January 2026 that the contents of the above reply affidavit are derived from the official records and personal knowledge and are correct and true to the best of my knowledge and belief. Nothing material has been concealed therefrom.

Somuesh Singh
 DEPONENT

I Identify the Deponent who has Signed / put T.I. In my presence

Solemnly affirmed before me
 Readover & Explained to the Deponent
 who has signed before me.

KK Mishra

KRISHNA KUMAR MISHRA
 NOTARY PUBLIC (DELHI)
 GOVT. OF INDIA

28 JAN 2026

Hinch Lal Tiwari vs Kamala Devi And Ors on 25 July, 2001

Equivalent citations: AIR 2001 SUPREME COURT 3215, 2001 (6) SCC 496, 2001 AIR SCW 2865, 2001 ALL. L. J. 2035, 2001 (4) LRI 861, 2002 (1) UJ (SC) 102, 2002 UJ(SC) 1 102, (2001) 6 JT 88 (SC), 2001 (7) SRJ 444, 2001 ALL CJ 2 1604, (2001) REVDEC 689, (2001) 3 ALL WC 2398, (2001) 4 SCALE 670, (2001) 3 SCJ 51, (2001) 2 UC 247

Bench: Syed Shah Mohammed Quadri, S.N. Phukan

CASE NO. :
Appeal (civil) 4787 of 2001

PETITIONER:
HINCH LAL TIWARI

RESPONDENT:
KAMALA DEVI AND ORS.

DATE OF JUDGMENT: 25/07/2001

BENCH:
SYED SHAH MOHAMMED QUADRI & S.N. PHUKAN

JUDGMENT:

JUDGMENT 2001 Supp(1) SCR 23 The Order of the Court was as follows :

Leave is granted.

This appeal is from the judgment and order of the High Court of Judicature at Allahabad allowing in part Civil Miscellaneous Writ Petition No. 26572 of 1999, filed by Respondents 1 to 10, on 16-8-2000.

The dispute relates to Plot No. 774-KA measuring 15 biswas situated in Village Ugapur, Taluka Asnao, District Sant Ravidas Nagar (U.P.) (hereinafter referred to as "the pond"). It appears that proceeding was initiated by the Lekhpal of the village to allot plots of land to an extent of 15 biswas of the pond area on 11-8-1988. The SDO allotted 250 sq. yards to each of Respondents 1 to 10 who are said to belong to one family. Seventeen persons of that village objected to the said allotment under Rule 115-P of the U.P. Zamindari Abolition and Land Reforms Rules (for short "the Rules"). The Additional Collector called for a report from the Tahsildar on their objections but the matter seems to have rested there as the objectors withdrew their objections. At that stage the appellant filed an application praying the Additional Collector to cancel the allotment of land in favour of Respondents 1 to 10. On

25-2-1999 the Additional Collector cancelled the allotment in question made in their favour. They carried the matter unsuccessfully in revision before the Commissioner who by order dated 12-3-1999 dismissed the revision. Challenging the correctness of the order of the Divisional Commissioner the said respondents filed Writ Petition No. 26572 of 1999 in the High Court of Judicature at Allahabad. By the impugned order the High Court partly allowed the writ petition by confirming the allotment in respect of 10 biswas and cancelling in respect of 5 biswas, which led to filing of this appeal.

Mr. Ranjit Kumar, the learned Senior Counsel for the appellant vehemently contends that the power of allotment of the land is available in respect of abadi site and not in respect of a pond which is a public utility and meant for public use; that no part of it could have been allotted in favour of any person, much less in favour of Respondents 1 to 10 who do not fall in the specified categories of the beneficiaries under the Rules. He invited our attention to Section 122-C(1) which specifies the classes of land which can be earmarked for the provisions of abadi sites and pointed out that pond (talab) area is not among them. Mr. Dwivedi, the learned Senior Counsel appearing for the official respondents argued that having regard to the provisions of the Act and the Rules, it is difficult to support the allotment of the pond land in favour of Respondents 1 to 10 and that the order of cancellation of allotment is justified and valid. Mr. Garg, the learned counsel appearing for Respondents 1 to 10 submits that the Lekhpal forwarded proposals for allotment of house sites on the land which ceased to be a pond, to the Additional Collector who allotted the plots in their favour, therefore, it must be assumed that the land was treated as an abadi site in respect of which allotment of house site would be permissible.

The short question that arises for our consideration is whether the allotted land forms part of a pond (talab) and if so, can it be allotted under Section 122-C(1) of the Act.

It would be useful to refer to the provisions of the U.P. Zamindari Abolition and Land Reforms Act, 1950 (referred to in this judgment as "the Act"). Under Section 4 of the Act, all estates shall vest in the State from the specified date. Section 117 of the Act deals with vesting of certain lands in a Gaon Sabha. Clause (vi) of the said section which is relevant for our purpose reads thus :

"117. Vesting of certain lands, etc. in Gaon Sabhas and other local authorities. - (1) At any time after the publication of the notification referred to in Section 4, the State Government may, by general or special order to be published in the manner prescribed, declare that as from a date to be specified in this behalf, all or any of the following things, namely -

(i)-(v) * * *

(vi) tanks, ponds, private ferries, water channels, pathways and abadi sites, -

which had vested in the State under this Act shall vest in a Gaon Sabha or any other local authority established for the whole or part of the village in which the said things are situate, or partly in one such local authority (including a Gaon Sabha) and partly in another :Provided that it shall be lawful for the State Government to make the declaration aforesaid subject to such exceptions and conditions as may be specified in such order."

A perusal of the provision extracted above makes it clear that tanks, ponds, private ferries, water channels, pathways and abadi sites which had vested in the State under Section 4 of the Act shall vest in the Gaon Sabha or any other local authority established for the whole or any part of the village in which the said things are situate, or partly in one such local authority and partly in another, from the date specified in the notification issued by the Government in this behalf. Section 122-C authorises the Assistant Collector, in charge of the sub-division to earmark the classes of land noted hereunder either on his own motion or on the resolution of the Land Management Committee, for the members of the Scheduled Castes and the Scheduled Tribes and agricultural labourers and village artisans. It would be apt to refer to clause (a) of sub-section (1) of Section 122-C which reads as follows :

"122-C. Allotment of land for housing site for members of Scheduled Castes, agricultural labourers etc. - (1) The Assistant Collector in charge of the sub-division of his own motion or on the resolution of the Land Management Committee, may earmark any of the following classes of land for the provision of abadi sites for the members of the Scheduled Castes and the Scheduled Tribes and agricultural labourers and village artisans -

(a) lands referred to in clause (i) of sub-section (1) of Section 117 and vested in the Gaon Sabha under that section;"

And the said clause (i) runs as follows :

" 117. (1)(i) lands, whether cultivable or otherwise, except lands for the time being comprised in any holding or grove, * * *"

The term "land"

is defined in Section 3, sub-section (14) to mean land held or occupied for purposes connected with agriculture, horticulture or animal husbandry which includes pisciculture and poultry farming. The definition excludes land dealt with in Sections 109, 143, 144 and Chapter 7. We may note that we are not concerned with the excepted categories. From a combined reading of the provisions aforementioned, it is plain that the subject-matter of allotment of house sites is lands referred to in clause (i) of sub-section (1) and not tanks, ponds, private ferries, water channels, pathways referred to in clause (vi) of sub-section (1) of Section 117 of the Act. It appears to us that due to inappropriate drafting the expression "and abadi sites" is wrongly placed in clause (vi).

It would not be out of place to notice here that Section 122-C enumerates the categories of persons who are entitled to allotment of land and they are (1) Scheduled Castes, (2) Scheduled Tribes, (3) agricultural labourers, and (4) village artisans. For disposal of this case it is unnecessary to go into the question whether in a case of allottable land, the said respondents answer the description of the beneficiaries specified in sub-section (3) of Section 122-C of the Act.

Reverting to the first part of the question, from the report of the Tahsildar dated 18-4-1990 which is termed as the first report, it is clear that in the said Survey No. 774-KA, there is a pond (talab). The same is the substance of the report of the SDO dated 20-4-1990. Two more reports were called for by the orders of the High Court. They are dated 12-9-1999 and 3-4-2000. We do not find any substantial difference between these reports and the reports prepared by the Tahsildar and the SDO. We may also mention here that in khasra khatauni for the years 1387 to 1392 Fasli (corresponding to years 1980 to 1985) and 1393 to 1398 Fasli (1986-92) the description of the said survey number is given as pond. Consistent with those entries the Additional Collector found it to be a pond (talab) and cancelled the allotment of plots in favour of the said respondents. The Commissioner rightly confirmed the order of the Additional Collector. In writ petition, the High Court, in the impugned order, noted :

"From the report of the Sub-Divisional Officer dated 3-4-2000 it is clear that the land had the character of a pond but due to passage of time most of its part became levelled. But some of the portion had still the character of a pond and during the rainy season it is covered by water. The area which is covered by water or may be covered by water in the rainy season could not be allotted as abadi site to any person."

On this finding, in our view, the High Court ought to have confirmed the order of the Commissioner. However, it proceeded to hold that considering the said report the area of 10 biswas could only be allotted and the remaining five biswas of land which have still the character of a pond, could not be allotted. In our view, it is difficult to sustain the impugned order of the High Court. 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. For the aforementioned reasons, we set aside the order of the High Court, restore the order of the Additional Collector dated 25-2-1999 confirmed by the Commissioner on 12-3-1999. Consequently, Respondents 1 to 10 shall vacate the land, which was allotted to them, within six months from today. They will, however, be permitted to take away the material of the houses which they have constructed on the said land. If Respondents 1 to 10 do not vacate the land within the said period the official respondents i.e. Respondents 11 to 13 shall demolish the construction and get possession of the said land in accordance with law. The State including Respondents 11 to 13 shall restore the pond, develop and maintain the same as a recreational spot which will undoubtedly be in the best interest of the villagers. Further it will also help in maintaining ecological balance and protecting the environment in regard to which this Court has repeatedly expressed its concern. Such measures must begin at the grass-root level if they were to become the nation's pride.

The appeal is accordingly allowed. There shall be no order as to costs.

Jagpal Singh & Ors vs State Of Punjab & Ors on 28 January, 2011

Equivalent citations: AIR 2011 SUPREME COURT 1123, 2012 AIR SCW 2574, (2011) 99 ALLINDCAS 88 (SC), 2011 AIR SCW 990, AIR 2012 SC (CIVIL) 1453, AIR 2011 SC (CIVIL) 492, (2011) 1 CURCC 144, (2011) 3 MAD LW 17, (2011) 1 ORISSA LR 940, (2016) 3 PAT LJR 268, (2011) 2 RAJ LW 1389, 2011 (11) SCC 396, (2011) 1 RECCIVR 912, (2011) 1 ICC 742, (2011) 2 SCALE 42, (2016) 3 JLJR 321, (2011) 85 ALL LR 500, (2011) 3 ALL WC 2379, (2011) 2 GUJ LR 1304, (2011) 3 MAD LJ 760, (2011) 2 JCR 52 (SC), (2011) 112 CUT LT 130, (2011) 1 LANDLR 61, (2011) 113 REVDEC 329, (2011) 1 CLR 554 (SC), 2011 (1) KLT SN 97 (SC), 2011 (86) ALR SOC 49 (SC)

Author: Markandey Katju

Bench: Markandey Katju, Gyan Sudha Misra

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1132 /2011 @ SLP(C) No.3109/2011
(Arising out of Special Leave Petition (Civil) CC No. 19869 of 2010)

Jagpal Singh & Ors. .. Appellant (s)

-versus-

State of Punjab & Ors. .. Respondent (s)

JUDGMENT

Markandey Katju, J.

1. Leave granted.
2. Heard learned counsel for the appellants.

3. Since time immemorial there have been common lands inhering in the village communities in India, variously called gram sabha land, gram panchayat land, (in many North Indian States), shamlat deh (in Punjab etc.), mandaveli and poramboke land (in South India), Kalam, Maidan, etc., depending on the nature of user. These public utility lands in the villages were for centuries used for the common benefit of the villagers of the village such as ponds for various purposes e.g. for their cattle to drink and bathe, for storing their harvested grain, as grazing ground for the cattle, threshing floor, maidan for playing by children, carnivals, circuses, ramlila, cart stands, water bodies, passages, cremation ground or graveyards, etc. These lands stood vested through local laws in the State, which handed over their management to Gram Sabhas/Gram Panchayats. They were generally treated as inalienable in order that their status as community land be preserved. There were no doubt some exceptions to this rule which permitted the Gram Sabha/Gram Panchayat to lease out some of this land to landless labourers and members of the scheduled castes/tribes, but this was only to be done in exceptional cases.

4. The protection of commons rights of the villagers were so zealously protected that some legislation expressly mentioned that even the vesting of the property with the State did not mean that the common rights of villagers were lost by such vesting. Thus, in *Chigurupati Venkata Subbayya vs. Paladuge Anjayya*, 1972(1) SCC 521 (529) this Court observed :

"It is true that the suit lands in view of Section 3 of the Estates Abolition Act did vest in the Government. That by itself does not mean that the rights of the community over it were taken away. Our attention has not been invited to any provision of law under which the rights of the community over those lands can be said to have been taken away. The rights of the community over the suit lands were not created by the landholder. Hence those rights cannot be said to have been abrogated by Section 3) of the Estates Abolition Act."

5. What we have witnessed since Independence, however, is that in large parts of the country this common village land has been grabbed by unscrupulous persons using muscle power, money power or political clout, and in many States now there is not an inch of such land left for the common use of the people of the village, though it may exist on paper. People with power and pelf operating in villages all over India systematically encroached upon communal lands and put them to uses totally inconsistent with its original character, for personal aggrandizement at the cost of the village community. This was done with active connivance of the State authorities and local powerful vested interests and goondas. This appeal is a glaring example of this lamentable state of affairs.

6. This appeal has been filed against the impugned judgment of a Division Bench of the Punjab and Haryana High Court dated 21.5.2010. By that judgment the Division Bench upheld the judgment of the learned Single Judge of the High Court dated 10.2.2010.

7. It is undisputed that the appellants herein are neither the owner nor the tenants of the land in question which is recorded as a pond situated in village Rohar Jagir, Tehsil and District Patiala. They are in fact trespassers and unauthorized occupants of the land relating Khewat Khatuni No. 115/310, Khasra No. 369 (84-4) in the said village. They appear to have filled in the village pond and

made constructions thereon.

8. The Gram Panchayat, Rohar Jagir filed an application under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 to evict the appellants herein who had unauthorisedly occupied the aforesaid land. In its petition the Gram Panchayat, Rohar Jagir alleged that the land in question belongs to the Gram Panchayat, Rohar as is clear from the revenue records. However, the respondents (appellants herein) forcibly occupied the said land and started making constructions thereon illegally. An application was consequently moved before the Deputy Commissioner informing him about the illegal acts of the respondents (appellants herein) and stating that the aforesaid land is recorded in the revenue records as Gair Mumkin Toba i.e. a village pond. The villagers have been using the same, since drain water of the village falls into the pond, and it is used by the cattle of the village for drinking and bathing. Since the respondents (appellants herein) illegally occupied the said land an FIR was filed against them but to no avail. It was alleged that the respondents (appellants herein) have illegally raised constructions on the said land, and the lower officials of the department and even the Gram Panchayat colluded with them.

9. Instead of ordering the eviction of these unauthorised occupants, the Collector, Patiala surprisingly held that it would not be in the public interest to dispossess them, and instead directed the Gram Panchayat, Rohar to recover the cost of the land as per the Collector's rates from the respondents (appellants herein). Thus, the Collector colluded in regularizing this illegality on the ground that the respondents (appellants herein) have spent huge money on constructing houses on the said land.

10. Some persons then appealed to the learned Commissioner against the said order of the Collector dated 13.9.2005 and this appeal was allowed on 12.12.2007. The Learned Commissioner held that it was clear that the Gram Panchayat was colluding with these respondents (appellants herein), and it had not even opposed the order passed by the Collector in which directions were issued to the Gram Panchayat to transfer the property to these persons, nor filed an appeal against the Collector's order.

11. The learned Commissioner held that the village pond has been used for the common purpose of the villagers and cannot be allowed to be encroached upon by any private respondents, whether Jagirdars or anybody else. Photographs submitted before the learned Commissioner showed that recent attempts had been made to encroach into the village pond by filling it up with earth and making new constructions thereon. The matter had gone to the officials for removal of these illegal constructions, but no action was taken for reasons best known to the authorities at that time. The learned Commissioner was of the view that regularizing such kind of illegal encroachment is not in the interest of the Gram Panchayat. The learned Commissioner held that Khasra No. 369 (84-4) is a part of the village pond, and the respondents (appellants herein) illegally constructed their houses at the site without any jurisdiction and without even any resolution of the Gram Panchayat.

12. Against the order of the learned Commissioner a Writ Petition was filed before the learned Single Judge of the High Court which was dismissed by the judgment dated 10.2.2010, and the judgment of learned Single Judge has been affirmed in appeal by the Division Bench of the High Court. Hence this appeal.

13. We find no merit in this appeal. The appellants herein were trespassers who illegally encroached on to the Gram Panchayat land by using muscle power/money power and in collusion with the officials and even with the Gram Panchayat. We are of the opinion that such kind of blatant illegalities must not be condoned. Even if the appellants have built houses on the land in question they must be ordered to remove their constructions, and possession of the land in question must be handed back to the Gram Panchayat. Regularizing such illegalities must not be permitted because it is Gram Sabha land which must be kept for the common use of villagers of the village. The letter dated 26.9.2007 of the Government of Punjab permitting regularization of possession of these unauthorized occupants is not valid. We are of the opinion that such letters are wholly illegal and without jurisdiction. In our opinion such illegalities cannot be regularized. We cannot allow the common interest of the villagers to suffer merely because the unauthorized occupation has subsisted for many years.

14. In *M.I. Builders (P) Ltd. vs. Radhey Shyam Sahu*, 1999(6) SCC 464 the Supreme Court ordered restoration of a park after demolition of a shopping complex constructed at the cost of over Rs.100 crores. In *Friends Colony Development Committee vs. State of Orissa*, 2004 (8) SCC 733 this Court held that even where the law permits compounding of unsanctioned constructions, such compounding should only be by way of an exception. In our opinion this decision will apply with even greater force in cases of encroachment of village common land. Ordinarily, compounding in such cases should only be allowed where the land has been leased to landless labourers or members of Scheduled Castes/Scheduled Tribes, or the land is actually being used for a public purpose of the village e.g. running a school for the villagers, or a dispensary for them.

15. In many states Government orders have been issued by the State Government permitting allotment of Gram Sabha land to private persons and commercial enterprises on payment of some money. In our opinion all such Government orders are illegal, and should be ignored.

16. The present is a case of land recorded as a village pond. This Court in *Hinch Lal Tiwari vs. Kamala Devi*, AIR 2001 SC 3215 (followed by the Madras High Court in *L. Krishnan vs. State of Tamil Nadu*, 2005(4) CTC 1 Madras) held that land recorded as a pond must not be allowed to be allotted to anybody for construction of a house or any allied purpose. The Court ordered the respondents to vacate the land they had illegally occupied, after taking away the material of the house. We pass a similar order in this case.

17. In this connection we wish to say that our ancestors were not fools. They knew that in certain years there may be droughts or water shortages for some other reason, and water was also required for cattle to drink and bathe in etc. Hence they built a pond attached to every village, a tank attached to every temple, etc. These were their traditional rain water harvesting methods, which served them for thousands of years.

18. Over the last few decades, however, most of these ponds in our country have been filled with earth and built upon by greedy people, thus destroying their original character. This has contributed to the water shortages in the country.

19. Also, many ponds are auctioned off at throw away prices to businessmen for fisheries in collusion with authorities/Gram Panchayat officials, and even this money collected from these so called auctions are not used for the common benefit of the villagers but misappropriated by certain individuals. The time has come when these malpractices must stop.

20. In Uttar Pradesh the U.P. Consolidation of Holdings Act, 1954 was widely misused to usurp Gram Sabha lands either with connivance of the Consolidation Authorities, or by forging orders purported to have been passed by Consolidation Officers in the long past so that they may not be compared with the original revenue record showing the land as Gram Sabha land, as these revenue records had been weeded out. Similar may have been the practice in other States. The time has now come to review all these orders by which the common village land has been grabbed by such fraudulent practices.

21. For the reasons given above there is no merit in this appeal and it is dismissed.

22. Before parting with this case we give directions to all the State Governments in the country that they should prepare schemes for eviction of illegal/unauthorized occupants of Gram Sabha/Gram Panchayat/Poramboke/Shamlat land and these must be restored to the Gram Sabha/Gram Panchayat for the common use of villagers of the village. For this purpose the Chief Secretaries of all State Governments/Union Territories in India are directed to do the needful, taking the help of other senior officers of the Governments. The said scheme should provide for the speedy eviction of such illegal occupant, after giving him a show cause notice and a brief hearing. Long duration of such illegal occupation or huge expenditure in making constructions thereon or political connections must not be treated as a justification for condoning this illegal act or for regularizing the illegal possession. Regularization should only be permitted in exceptional cases e.g. 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.

23. Let a copy of this order be sent to all Chief Secretaries of all States and Union Territories in India who will ensure strict and prompt compliance of this order and submit compliance reports to this Court from time to time.

24. Although we have dismissed this appeal, it shall be listed before this Court from time to time (on dates fixed by us), so that we can monitor implementation of our directions herein. List again before us on 3.5.2011 on which date all Chief Secretaries in India will submit their reports.

.....J. [Markandey Katju]J. [Gyan Sudha Mishra] New Delhi;

January 28, 2011