

**In Re : T.N. Godavarman Thirumulpad v. Union Of India And Ors.**

- ❖ **TOPIC :** Litigant Whose Land Was Illegally Occupied By State 60 Yrs Ago Gets Relief From Supreme court
- ❖ **BENCH :** Justices BR Gavai and KV Viswanathan



- ❖ **FORUM:** Supreme Court
- ❖ **MAIN ISSUE**
  - Whether a litigant whose land was illegally occupied by Maharashtra authorities 60 years ago will get the relief or not.
- ❖ **FACTS**
  - An interlocutory application was filed by the litigant, claiming that his predecessors-in-interest purchased a 24-acre land in Pune in 1950s.
  - When the state government occupied that land, they instituted a suit and won all the way upto the Supreme Court.
- ❖ **BACKGROUND**
  - Subsequently, the decree was sought to be executed, but the state made a statement that the land had been given to a Defence Institute.
  - The Defence Institute, on its part, claimed that it was not a party to the dispute and therefore could not be evicted.
  - Thereafter, the applicant moved the Bombay High Court, praying that he be allotted alternate land. The High Court issued strictures against the state for not allotting alternate land for 10 years.
  - As such, in 2004, an alternate land was finally allotted. But eventually, the Central Empowered Committee informed the applicant that the said land was part of a notified forest area.
  - Raising grievance before the Supreme Court, the applicant urged that three rounds of litigation were fought over 50 years, yet when ultimately alternate land was allotted, the same turned out to be forest land.
  - Pursuant to the intervention of the Supreme Court, a litigant whose land was illegally occupied by Maharashtra authorities 60 years ago got relief in

the form of alternate land.

❖ **OBSERVATIONS**

- The matter was before a bench of Justices BR Gavai and KV Viswanathan, which directed the state authorities to deliver peaceful and vacant possession of the alternate land (agreed to be accepted by the aggrieved applicant) as compensation.
- On earlier occasions, the top Court sharply rebuked the State of Maharashtra for not coming up with a reasonable compensation while also issuing a stern warning that it would order the stoppage of schemes like "ladli behna" and direct the demolition of the structures built on the illegally acquired land.
- On August 28, the Court considered the Maharashtra government's stance that it had 14 hectares of land, out of which 24 acres, 38 guntha could be allotted to the applicant.
- It was left to the applicant to decide whether he was interested in alternate land or compensation amount.
- Today, the applicant agreed to accept the alternate land offered by Maharashtra authorities, subject to an undertaking by the latter, which was recorded in the order. This undertaking was filed during the day on behalf of the state authorities.
- The Court accepted the undertaking and additionally directed:
  - The Collector, Pune shall personally ensure that 24 acres, 38 gunthas of land is measured and demarcated;
  - After the demarcation, peaceful and vacant possession of the said land is handed over to the applicant; and
  - If there are any encroachments on the alternate land, the same shall be removed prior to the land being handed over to the applicant.
- Insofar as modification to be issued under Section 37 of Maharashtra Regional and Town Planning Act, 1966 for changing user of the land from public/semi-public to residential, the Court fixed a time limit of 3 months.

**Nandkishor Sahu v Sanjeevani Patil**

- ❖ **TOPIC :** Maintenance Tribunals Cannot Cancel Gift Deeds Merely On 'Vague Allegations' of Senior Citizens Against Their children
- ❖ **BENCH :** Justice RM Joshi
- ❖ **FORUM:** Bombay High Court

**FOLLOW US**



**PW Mobile APP**  
<https://www.pw.live/>



<https://www.youtube.com/@JudiciarybyPW>



<https://t.me/pwlawwallah>

### ❖ MAIN ISSUE

- Whether the Maintenance Tribunal under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 can cancel the 'gift deed' or not executed by a parent merely on the 'vague' allegations of 'non-maintenance' of the senior citizen by their children or the person, whom they have 'gifted' their property.



### ❖ FACTS

- As per the facts of the case, the petitioners before Justice Joshi were husband and wife and the respondent to their plea was the wife's mother.
- The petitioners contended that the mother executed a gift deed in their favour in August 2016 by which two flats in Kolhapur were gifted to the couple.
- However, when the father-in-law (respondent 1's) learnt about the gift deed, he filed a suit seeking injunction.

### ❖ BACKGROUND

- The respondent mother before the civil court filed a written statement affirming the gift deed and even stated that the petitioners were looking after her with love and care.
- However, after a few years, the woman's second daughter 'instigated' the woman to cancel the gift deed and accordingly the woman filed a complaint before the Tribunal alleging that the gift deed was obtained fraudulently as she was under influence of some medicines.
- She also alleged that the petitioners were not maintaining her properly.
- On this very ground, the Maintenance Tribunal cancelled the gift deed.
- The Bombay High Court recently held that a Maintenance Tribunal under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 cannot cancel the 'gift deed' executed by a parent merely on the 'vague' allegations of 'non-maintenance' of the senior citizen by their children or the person, whom they have 'gifted' their property.

### ❖ OBSERVATIONS

- Single-judge Justice RM Joshi on August 29

quashed the December 2022 order of a Tribunal, which cancelled the 'gift deed' executed by a 73-year-old woman in favour of her elder daughter and husband, thereby, gifting two of her flats in Kolhapur to the elder daughter and husband.

- It noted that the senior citizen woman had made allegations that her elder daughter and her husband failed to keep their promise of maintaining her and deprived her of basic physical need and other amenities.
- In his order, Justice Joshi noted that the woman had only made some vague allegations and did not 'specify' the alleged non-maintenance.
- Before Justice Joshi, the petitioners argued that the Tribunal erred in relying on the 'vague' allegations made by the mother.
- The Judge found substance in the said contention and therefore, quashed the order of the Tribunal.

### P V Samuel v. State of Kerala

- ❖ **TOPIC** : Kerala High Court Declines to Quash Criminal Proceedings Against Man booked For Uploading Allegedly Objectionable Video Against Nuns

- ❖ **BENCH** : Justice A. Badharudeen



- ❖ **FORUM**: Kerala High Court

### ❖ MAIN ISSUE

- Whether criminal proceedings initiated against a man booked for allegedly publishing a video stating that nuns are the concubines of priests and bishops on YouTube and Facebook can be quashed or not.

### ❖ FACTS

- A crime was registered against the petitioner for allegedly committing offences under Sections 298 (uttering words etc with deliberate intent to wound the religious feelings), 504 (intentional insult with intent to provoke breach of peace) of the IPC, Sections 3 (prohibition of advertisements containing indecent representation of women) and Section 4 (prohibition of publication or sending by

**FOLLOW US**



**PW Mobile APP**  
<https://www.pw.live/>



<https://www.youtube.com/@JudiciarybyPW>



<https://t.me/pwlawwallah>

post of books, pamphlets, etc., containing indecent representation of women) of the Indecent Representation of Women (Prohibition) Act, 1986.

- The petitioner contended that an offence under Section 504 of IPC was not established, since there was no intentional insult to break public peace. Relying upon various decisions, it was argued that mere abuse, discourtesy, rudeness or insolence will not amount to intentional hurt under Section 504 of IPC.

#### ❖ **BACKGROUND**

- The prosecution alleged that the video was published on June 01, 2020, with the intent to hurt and insult the religious feelings of nuns.
- It is alleged that the petitioner indecently represented nuns and intentionally insulted Christian bishops and priests.
- The Kerala High Court declined to quash criminal proceedings initiated against a man booked for allegedly publishing a video stating that nuns are the concubines of priests and bishops on YouTube and Facebook.
- The prosecution alleged that the video was published on June 01, 2020, with the intent to hurt and insult the religious feelings of nuns.

#### ❖ **OBSERVATIONS**

- It is alleged that the petitioner indecently represented nuns and intentionally insulted Christian bishops and priests.
- Justice A. Badharudeen observed that prima facie offences are made out and that criminal proceedings initiated against the petitioner cannot be quashed.
- The petitioner further stated that there was no indecent representation of women.
- He further argued that no offence under Section 298 of IPC was also made out.
- On analysing the provisions, the Court observed that prayer for quashing the proceedings was unsustainable. As such, the Court dismissed the petition.

### Mohammed Siddique v. State of Rajasthan

- ❖ **TOPIC :** Accused's Fundamental Right To Liberty Includes Right to Participate In Significant Family Events
- ❖ **BENCH :** Justice Arun Monga
- ❖ **FORUM:** Rajasthan High Court
- ❖ **MAIN ISSUE**
  - Permission related to travelling abroad.

#### ❖ **FACTS**

- The Rajasthan High Court granted permission to an accused charged for attempt to murder and under the Arms Act, to travel abroad to attend his daughter's engagement ceremony.



#### ❖ **OBSERVATIONS**

- The bench of Justice Arun Monga set aside the order of Sessions Judge that had dismissed the application filed by the accused to this effect and held that despite being an accused, the petitioner still had the fundamental right to personal liberty which included the right to travel and participate in significant family events.
- The Court observed that the petitioner did not appear to have any intention to evade the judicial process and was willing to comply with all the conditions.
- Hence, if the trial court found him at risk of absconding, restrictions could be imposed on him to ensure his return.
- The Court also rejected the suggestion of the petitioner attending the ceremony virtually, terming it as unjustified and disregarding the cultural and emotional significance of the event.
- The petitioner, though an accused, but still has a fundamental right to personal liberty, which includes the right to travel and participate in significant family events.
- Denying him the opportunity to attend his daughter's engagement ceremony would cause irreparable emotional harm and infringe upon his right to maintain familial bonds...Virtual presence cannot substitute the physical presence of a father at his daughter's engagement, which is a once-in-a-lifetime event for both father and daughter."
- In this background, the Court granted the petitioner the liberty to file a fresh application seeking permission to travel abroad to attend the ceremony by providing details like the date of departure, arrival in India, proof of all air tickets and other relevant documents. Consequently, the trial court

**FOLLOW  
US**



**PW Mobile APP**  
<https://www.pw.live/>



[https://www.youtube.com/  
@JudiciarybyPW](https://www.youtube.com/@JudiciarybyPW)



<https://t.me/pwlawwallah>



was directed to grant the necessary permission.

- Accordingly, the petition was disposed of.

### **Dhanraj Aswani v. Amar S. Mulchandani And Anr**

- ❖ **TOPIC :** Accused In Custody Can Seek Anticipatory Bail For Another Case
- ❖ **BENCH :** Chief Justice of India, Justice JB Pardiwala and Manoj Misra
- ❖ **FORUM:** Supreme Court



#### ❖ **MAIN ISSUE**

- Whether an accused already in custody in connection with one case can apply for anticipatory bail or not in connection with another case.

#### ❖ **FACTS**

- In a significant judgment, the Supreme Court held that an accused already in custody in connection with one case can apply for anticipatory bail in connection with another case.
- A bench comprising Chief Justice of India, Justice JB Pardiwala and Manoj Misra delivered the judgment in a case which raised the legal issue whether anticipatory bail can be granted when the accused is arrested in another case.

#### ❖ **OBSERVATIONS**

- Justice JB Pardiwala read out the main conclusions of the judgment as follows :
  - An accused is entitled to seek anticipatory bail in connection with an offence, so long as he is not arrested in relation to that offence. Once he is arrested, the only remedy available to him is to apply for regular bail under Section 437/439 CrPC.
  - There is no explicit or implied restriction in the CrPC or in any other statute that prohibits the Sessions Court or the High Court from entertaining and deciding an anticipatory bail application in relation to an offence while the applicant is in custody in relation to a different offence.
  - No restriction can be read into Section 438 of the CrPC to preclude an accused from applying for anticipatory bail in relation to an offence while he is in custody in a different offence, as that would be against the purport of the provision and the intent of the legislature.
  - The only restriction on the power of the Court to grant anticipatory bail under Section 438 CrPC is one prescribed under sub-section (4) of Section 438 CrPC and in other statutes like SC/ST Prevention of Atrocities Act etc.
  - Under Section 438 CrPC, the precondition for an accused to apply for pre-arrest bail is a reason to believe that he is likely to be arrested. Therefore, the only precondition for exercising the said right is the apprehension of the accused that he is likely to be arrested.
  - Custody in one case does not have the effect of taking away the apprehension of arrest in another case.

**FOLLOW US**



**PW Mobile APP**  
<https://www.pw.live/>



<https://www.youtube.com/@JudiciarybyPW>



<https://t.me/pwlawwallah>