

THE ATTEMPT OF THE SURAT PARSI PUNCHAYET TO SELL OFF LARGE PART OF DOKHMA LAND PROVES ABORTIVE

Gujerat Revenue Tribunal Sets Aside the Jt. Charity Commissioner's Order Sanctioning The Sale.

"Dokhme-Nashini", the religious command of placing the dead body of a Parsi in the Dokhma, is one of our spiritual Institutions like Manthra Prayers, Sudreh Kushti, Atash Baherams, Agiaries, Kriyakaam. The spiritual identity and external survival of any community depend upon its distinct religious tenets, tarikats and ways of life, which are, and should remain, different from any other community. Without them the community sinks and merges away in the vast ocean of the humans on earth. The Parsi Community is fast on its way to provide one more proof of this rule of nature. The most disastrous part of this situation is that the Community itself is squarely responsible for it. The alleged leaders as well as the lay Parsis alike went into a sleepiness towards the spiritual side of each of our identifying Institutions. And today, the most damaged and tortured one is Dokhma, the responsibility whereof lies primarily and principally on the trustees in charge.

Take Mumbai, a hellish heaven for the land dealers, estate brokers and builders. They talk in crores and billions as also black and white - more black than white. Only the old stubborn and unflinching Parsi honesty could have withstood the onslaught. Alas! The present-day trustees holding the Dokhma land on sacred trust themselves were swept away in the Mumbai currents and committed serious breach of trust, legally as well as morally, by converting Dokhma lands into money-making machines.

The lands of and surrounding Dokhmas were donated by the donors and held by the trustees for the specific purpose of providing dwelling grounds and atmosphere for vultures.

Alas! They were tampered with; buildings were built on them by or through the trustees themselves. Spenta flats originally priced at less than 15 lakhs were and are now valued at a crore. The number of vultures at Mumbai Doongerwadi is reported between zero and seven! The scene within the Dokhma is too gloomy to be described.

Now let us switch over to Surat.

The Surat Punchayet Trustees followed their Mumbai big brethren. In March 1992, they agreed to sell large pieces of Dokhma land held by them to Agricultural Products Market Committee. These lands measured 42044 sq. yards at Village Umarwada and 15759 sq. yards at Village Karanj - total 57803 sq. yards. The price fixed was about Rs. 8 crores 32 lakhs. They applied to the Charity Commissioner for sanctioning the proposed sale.

The sale, if finalised, would have seriously affected the presence of vultures around the Dokhma structures. The lands would have become a beehive of tremendous marketing activities and would have driven away the vulture population. The same situation would have developed as is in Mumbai today.

Seven citizens of Surat appeared before the Jt. Charity Commissioner, Mr. Talavia, who was hearing the trustees' application for sanction, and presented several objections. On 11-7-95, the Jt. Charity Commissioner passed an order giving permission to sell the lands as proposed.

Under the Bombay Public Trusts Act as applicable to Gujerat, the Jt. Charity Commissioner's Order could be appealed against, before the Gujerat Revenue Tribunal, Ahmedabad. (The Bombay Act has no such provision for Appeal to Revenue Tribunal).

Four appeals were filed before the Gujarat Revenue Tribunal against the said Order of the Joint Charity Commissioner. One of the four appeals was by E.B. Lakdawala, Noshir Dordi & Others, the citizens of Surat and another was filed by Peshotan Faramroz Peer, Nadirshah Erachshah Turel and Nariman Ardeshir Mody representing the Parsi Vegetarian and Temperance Society and the members of the Parsi community. By an Order dated 6th January, 1995, the Gujerat Revenue Tribunal was pleased to grant an interim stay of the operation of the Charity Commissioner's Order dated 11-7-199 pending the decision of the Appeal.

The main arguments of the Appellants were as under:

- 1) Charity Commissioner is the protector of the Charitable Trusts and it is his duty to protect the objects of the Trusts and the interest of the beneficiaries. His jurisdiction is not only judicial but also investigative and protective.
- 2) The land was donated for the specific purpose for using it as a dokhma land and therefore cannot be sold out for any other purpose. The proposed sale was in violation of the objects of the Trust and the intentions of the donors.
- 3) The land was held for the religious purposes for the benefit of the Parsi Community and the proposed sale was violating the constitutional rights conferred on the Parsi denomination under articles 25 and 26 of the Constitution of India.
- 4) The Joint Charity Commissioner made great haste in deciding the matter and did not allow the objectors to produce and lead proper evidence.
- 5) The Joint Charity Commissioner had relied on an Affidavit of Dr. Sam Sarosh Bhakka, the Chairman of the Surat Parsi Panchayet where he had sworn on oath that **the Panchayet had enough land to bury in the ground 90 Parsi corpses per year, i.e. 450 bodies for the next five years, and therefore there was enough land to dispose of the Parsi dead. The Appellants strongly objected to such irreligious statement of Dr. Bhakka and contended that his statement amounted not only to breach of trust but also has violently injured the religious feelings and sentiments of the Parsi community.**

The Appeal was vehemently argued for several man-hours. After patiently hearing both sides, the Bench of the Gujarat Revenue Tribunal consisting of His Honour Judge, Shri B. K. Shah and His Honour Judge Shri N. K. Pavagadhi, decided the Appeals and passed the judgement and order on 21-9-2000. **The Tribunal accepted most of the arguments of the Appellants and set aside the Jt. Charity Commissioner's Order dated 11-7-1994 and remanded the matter back to the Charity Commissioner, Baroda, for a proper re-trial**, giving the Appellants adequate opportunity to present their evidence and arguments on points of facts and law. The Hon. Tribunal has also specifically ordered that the re-trial should not be conducted before Mr. M. M. Talavia, the Jt. Charity Commissioner who had sanctioned the proposed sale and whose Order was set aside by the Tribunal.

In the result, the Trustees cannot effect the sale and their attempt to sell off the land has proved abortive. The whole issue will be tried again by the Charity Commissioner, Vadodra.

Shri Jagdishchandra Nagarsheth, Advocate, appeared for the Surat Appellants and Shri K. N. Dastoor, Advocate for the Bombay Appellants. Mr. Sanat Kaji, Advocate, appeared for the Surat Parsi Panchayet Trustees.

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GUJERAT GOVERNMENT'S MOVE TO ACQUIRE 1.76 LAKH SQ.YARDS OF DOKHMA LAND.

Stern Opposition by Surat Citizens - Lukewarm Attitude And Double Talk of Surat Parsi Punchayet.

On page 12 of this issue is published a report of Surat Parsi Punchayet's abortive attempt to sell off a large part of the Dokhma land to the Agricultural Products Market Committee, Surat. There is an interesting and significant sideline to this event.

The arguments before the Gujerat Revenue Tribunal in the Appeals against the Jt. Charity Commissioner's order sanctioning the proposed sale were over and the case adjourned for verdict. Before the Judgment was pronounced on 21-9-2000, two notices were published on 21-5-2000, one in Gujerat Samachar and the other in Gujerat-Mitra and Gujerat Darpan, by the Collector Surat. The Notices purported to be under Section 4 of the Land Acquisition Act 1894 and notified that the Gujerat Government intended to acquire certain large portions of land at villages Umerwada and Karanj (measuring about 1.76 lakh square yards) as it was probable that the said land was required for "the public purpose" of expanding the Agricultural Products Market Committee, Surat.

The notified land was a part of the Dokhma land held by Surat Parsi Punchayet; however, it was not the same land which the Punchayet had agreed to sell to the said Committee and which was the subject matter of the Appeal before the Gujerat Revenue Tribunal. That land admeasured 57803 sq. yards and was different from the 1.76 lakh square yards, which was notified under the Land Acquisition Act, although both were Dokhma lands.

It was mystifying as to how the Gujerat Government suddenly found out the "probability" of "a public purpose", namely expansion of the Agricultural Products Market Committee (APMC) and proceeded to acquire 1.76 lakh square yards of the Parsi Dokhma Land; and how it was that "the public purpose" was stated to be for the same APM Committee, to whom the Punchayet had agreed to sell another part of Dokhma land (57803 sq. yards)!

When the 1.76 lakh square yards land was notified to be acquired, the Gujerat Revenue Tribunal had not given its judgment setting aside the Jt. Charity Commissioner's sanction to sell the other 57,803 sq. yards. The Notification was published on 21st May 2000, and the Tribunal's judgement was delivered on 21st September 2000. Two pieces of land both parsi Dokhma Land - for the same APM Committee - one through the sale proposed by the Punchayet itself and the other through Government Notification for acquisition! Strange! Very strange!! The invasion of APMC on Dokhma land! Mind, the beginning was made by Punchayet itself! Smells of high intricate politics!

Let us go further in the facts of this mystifying chapter.

The first to react to the Government Notification dated 21-5-2000 was not the Surat Parsi Punchayet. It was the Parsi citizens of Surat, acting through the Zarthoshti Dharma and Samaj-Seva Samiti. They addressed a memorandum to the Deputy Collector and Collector on 28th May 2000 - within 7 days of the notification. A part of this memorandum is published in January 2000 issue of this humble magazine.

The citizens' Memorandum to the Collector pointed out that the 1.76 lakh square yards land was a part of the Parsi Dokhma land and every Parsi on the globe was a beneficiary thereof. The land was specifically donated as Dokhma land to ensure that vulture population remains nearby the sacred towers. The proposed acquisition will violate the constitutional fundamental rights of the Parsi Community and has seriously hurt its religious feelings. The Memorandum also stated that the APM Committee's 'extension' is not a public purpose and that they have already more than sufficient amount of land.

The citizens took hundreds of signatures on the Memorandum to the Collector. Mr. Pallu Adil Sukheshwala, Municipal Councillor, Navsari Nagarpalika wrote to the Collector on 9-6-2000 that the land donated by the donors as Dokhma land could not be acquired; that religious feelings of Parsis are hurt and they strongly oppose the Government action; and the Government is bound to protect the rights of minorities.

Mr. Viraf Patel, Mantri, Navsari Jilla Congress Samiti wrote similarly to the Collector on 9-6-2000.

Surat Athornan Mandal wrote to the Collector on 1-6-2000 that the Athornans Parsi Priests - strongly object to the Government action for similar reasons. Their Memorandum is signed by several priests.

Gandevi Parsi Zarthoshti Anjuman also wrote to the Collector on 8-5-2000 that the Government should honour our Religious feelings and should not disturb the Dokhma land specifically donated to preserve the vulture population.

Sayyadpura Parsi Zoroastrian Kavyani Association also wrote similarly to the Collector on 10-6-2000.

To top it all, the Zarthoshti Dharma and Samaj Seva Samiti, Surat, called a public meeting on 18-6-2000 at Enty Dharamshala Hall which was overflowing with hundreds of Parsis. A Resolution was passed and forwarded to the Collector, a copy thereof with a long covering letter dated 26-6-2000.

You must be wondering what was the Surat Parsi Punchayet itself doing in the matter. They initially looked lukewarm. But the Parsi furore induced them to make a representation to the Collector on 17-6-2000, and come out with a handbill written in some circuitous Marshalian language. A close scrutiny of these documents reveals that the Punchayet was facing a dilemma, particularly because of their own attempt to sell the other piece of Dokhma land (57,803 sq. yards) to the same APM Committee, which was the subject matter of the then pending Appeal before the Gujerat Revenue Tribunal. They had however to contend before the Collector that the land was donated for Religious purpose. Their arguments sounded similar to the arguments that were advanced **against them** before the Revenue Tribunal, which they vehemently opposed there!

Before the Tribunal delivered its verdict against the Punchayet, the Appellants made a special application to the Tribunal pointing out to the effect that the Trustees were involved in double-talk. Before the Tribunal they were advocating the sale of one part of the Dokhma land to the APMC and opposing the proposed acquisition by the Government of another part for the same APMC. Before the Tribunal they even championed the burial-in-the-ground-method (vide Dr. Bhakka's Affidavit) and before the Collector they were relying on the same arguments which they were opposing in the Revenue Tribunal. The Appellants requested the Tribunal to keep the trustee double-talk in mind while deciding the Appeals.

Ultimately on 21-9-2000, the Tribunal set aside the Charity Commissioner's sanction (see page 13).

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The acquisition proceedings for the other part of land are pending. At one of the hearings before the Dy. Collector, large number of Parsis attended to present their protest.

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So, here goes!
Surat is on its way to Mumbai.
When defenders themselves become
offenders ...
Another aviary at Surat?
Solar energy to burn.....
Burial ground for 450 bodies every 5
years....?
What a maze and a mess!

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