

**Janardan Vs. State of U.P. and Others**

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**SooperKanoon Citation :** [sooperkanoon.com/474707](http://sooperkanoon.com/474707)

**Court :** Allahabad

**Decided On :** Feb-26-1999

**Reported in :** 1999(2)AWC1435

**Judge :** Ravi S. Dhavan and ;V.P. Goel, JJ.

**Appeal No. :** C.M. (Public Interest Litigation) W.P. No. 8133 of 1999

**Appellant :** Janardan

**Respondent :** State of U.P. and Others

**Advocate for Def. :** S.C.

**Advocate for Pet/Ap. :** Bipin Bihari, Adv.

**Judgement :**

**Ravi S. Dhavan, J.**

1. Janardan, the petitioner in this writ petition, resident of village and post Kharuav, District Ballia, seeks a writ of mandamus to direct the respondents, the District Magistrate, the Superintendent of Police, Ballia and the Sub-Divisional Magistrate, Rasara, Ballia, that they ought to take steps to ensure that Holika Dahan be prevented from being performed on plot No. 1229. In this writ petition, what is not relevant on what the petitioner desires or as he asserts. What is relevant is that the petitioner makes a statement of fact that on this plot No. 1229, previously it

was reserved for the performance of Holika Dahan on the eve of Holi. Now the petitioner contends that this ceremony on the eve of Holi is not being performed and the plot is in disuse. The Court inquired from petitioner's counsel, why is this so? In answer to the Court's inquiry, the reply is that the Land Management Committee of the village has passed a resolution that this plot of land hereinafter shall stand assigned as a reserved area within which a statue of 'Baba Saheb Ambedkar' shall be installed.

2. Counsel for the petitioner presses for a stay order. The Court has heard him in detail. The Court has drawn counsel's attention to the fact that the petition itself submits that two platoons of the Provincial Arms Constabulary are already standing by in reserve to keep vigil should there be breach of peace. In so far as this aspect is concerned, as the situation is admitted to the petitioner, this Court is not about to disturb the arrangements of any preventive steps which the district administration may have taken to keep peace in the area. Clearly, this writ petition has been filed to obtain a stay order that the arrangements of the district administration to prevent break of peace should be frustrated and, thereafter, a free for all as if might is right, in misplaced politics, should follow.

3. But in so far as the merits of the case is concerned, the petitioner admits that the land, in context, had always been marked, as common land for the benefit of people of the village. This is public land. The petitioner himself accepts that since long, it has been used for burning the bon-fire, that is the manifestation of Holika on the eve of Holi. The status of common land, cannot be disturbed. It is reserved for the benefit of the village and the people of the village for common use by all. Should the occasion, be festivals, then use by all communities for celebrating their festivals, be it Holi, Dashahra, Id, Christmas. Pongal, or Buddha Jayanti. Even the district administration cannot alter the status of this land. For what belongs as common land to the people of the village will remain so. Under the Constitution, local self government having been invested in the Gram Sabha, this body holds the land in trust for the people. For what is common shall remain common. No community or sect or syndicate in a village can arrogate to itself common land. No resolution can be passed to nullify such common land and any such resolution if attempted by the Gram Sabha will be ultra vires to the Constitution of India, which

guarantees local self government. Such tendencies are the negation of democracy and the principles of local self government. There is no resolution of the Gram Sabha, but the resolution is of the Land Management Committee, which in any case neither has authority nor sanction of the law to change the characteristics of common use of common land.

4. If the conforming use of a village land is common land ; such land has entity. The Gram Sabha cannot negate the status of such land for the common use of the entire village community. Far from what the petitioner contends, that this Court interferes, in fact, the district administration is under a Constitutional obligation to preserve common land in villages or towns, be it open land, park or playground, for community use by all irrespective of creed, caste or religion.

5. The writ petition is misconceived and is, accordingly, dismissed.

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