
MAHAD SATYAGRAHA* NOT FOR WATER BUT TO ESTABLISH HUMAN RIGHTS

‘The Sun of self-respect had now arisen in the sky and the clouds of oppression had begun to flit away. The Depressed Classes began to look up. And we now come to a momentous event in the life of Dr. B. R. Ambedkar. That event was a march on Mahad. This had its origin in the important resolution of the Bombay Legislative Council moved by S. K. Bole and adopted by the Bombay Government. In pursuance of the Bole resolution passed in 1923 and reaffirmed with a slight change in 1926, the Mahad Municipality had thrown open the Chawdar Tank to the Untouchables. However, the resolution of the Municipality remained a mere gesture in that the Untouchables had not exercised their right owing to the hostility of the caste Hindus.

It was, therefore, decided by the Kolaba District Depressed Classes to hold a Conference at Mahad on March 19 and 20, 1927. The leaders of the Conference had notified Dr. Ambedkar the date of the Conference in the first week of the previous month. Arrangements for the Conference were made with care by Surendranath Tipnis, Subhedar Savadkar and Anantrao Chitre. For the past two months workers and leaders had trodden hills and dales in the vicinity and had roused the Depressed Classes to the importance of the Conference. As a result, boys of fifteen to old men of seventy from far and near plodded distances of over hundred miles with bundles containing pieces of bread hanging from their shoulders and reached Mahad. About ten thousand delegates, workers and leaders of the Depressed Classes from almost all the districts of Maharashtra and Gujarat attended the Conference.

Every care had been taken, every convenience was provided, and every means was adopted to make the Conference a success. Water worth rupees forty was purchased from the Caste Hindus to satisfy the needs of the Conference, for water was not available to the Untouchables at the place of the Conference.

Dr. Ambedkar rose to deliver his presidential address to the half-clad, embarrassed, earnest men and women and began it in his simple, short and forceful sentences. With a strange

*Resisting injustice with soul force.

agitation in his voice he described the conditions of Dapoli where he had received the first rudiments of education and said that one was attracted to the place where one passed one's childhood and the beautiful scenery surrounding it deepened one's love for such a place. He recalled the days of his childhood and said : "There was a time when we, who are condemned as Untouchables, were much advanced, much ahead in education compared with communities other than the advanced classes. This part of the country was then pulsating with the action and authority of our people."

With great earnestness he then delivered a message to his people which echoed throughout the hills, dales and villages of Maharashtra. Declaring that the demilitarisation was one of the causes of their downfall, he said : " The military offered us unique opportunities of raising our standard of life and proving our merit and intellect, courage and brilliance as army officers. In those days Untouchables could also be headmasters of military schools and compulsory primary education in the military camps was very effective and wholesome." "It is nothing less than a betrayal and a treachery," he went on, "on the part of the British to have closed the doors of the army to the Untouchables who had helped them establish the Indian Empire while their home Government was at grips with the French during the Napoleonic War."

Then in an inspiring tone he said : "No lasting progress can be achieved unless we put ourselves through a three-fold process of purification. We must improve the general tone of our demeanour, re-tone our pronunciations and revitalise our thoughts. I, therefore, ask you now to take a vow from this moment to renounce eating carrion. It is high time that we rooted out from our mind the ideas of highness and lowness among ourselves. Make an unflinching resolve not to eat the thrown-out crumbs. We will attain self-elevation only if we learn self-help, regain our self-respect, and gain self-knowledge." He further urged his people to agitate against the Government ban on their entry into the Army, Navy and Police, and impressed upon them the importance of entering Government services and of education. Turning to the question of Mahars, he tweaked their self-respect by telling them

The Historical Chawdar Tank at Mahad



This Conference is held to unfurl the banner of *Equality* and thus may be likened to the National Assembly in France convened in 1789.

— Dr. B.R. Ambedkar

that it was utterly disgraceful to sell their human rights for a few crumbs of bread, and appealed to them fervently to do away with the humiliating, enslaving traditions, to abandon their Vatsans and seek forest lands for agricultural pursuits. In conclusion, in a moving tone he said: "There will be no difference between parents and animals if they will not desire to see their children in a better position than their own."

The Conference passed resolutions on important subjects. By one resolution the Conference appealed to the Caste Hindus to help the Untouchables secure their civic rights, to employ them in services, offer food to Untouchable students, and bury their dead animals themselves. Lastly, it appealed to Government to prohibit the Untouchables by special laws from eating carrion, enforce prohibition, provide them with free and compulsory primary education, give aid to the Depressed Classes hostels and make the 'Bole Resolution' a living reality by enjoining upon the local bodies, if necessary, to proclaim section 144 of Indian Criminal Procedure Code at their places, for its enforcement.

On the first day, a few caste Hindu spokesmen, local as well as outsiders, made speeches justifying the rights of the Depressed Classes and promised them help. The Subjects Committee, which met that night, decided, after taking the sense of the leaders of the upper classes who attended the Conference, that the Conference should go in a body to the Chawdar Tank and help the Depressed Classes to establish their right to take water. Next morning the Conference called upon two caste Hindu spokesmen to support the resolution regarding the duties and responsibilities of the Caste Hindus. Excluding the clause regarding inter-caste marriage, they both supported the resolution.

In pursuance of the resolution of the Mahad Municipality which in 1924 had declared to have thrown open its Tank to the Depressed Classes, it was now decided to take water from the Tank and establish the right of the Untouchables. The delegates accordingly began to march peacefully in a body to the Chawdar Tank to assert their right of taking water from the Tank. And now the momentous event, great in its magnitude and far-reaching in its consequences, was taking place. Anti-slavery, anti-caste,

anti-priest. Dr. Ambedkar, who represented the awakened spirit of the Untouchable Hindus, was marching towards the Tank from which the Muslims and Christians took water along with the so-called touchable Hindus, but from which the Untouchable Hindus who worshipped the Hindu Gods, stuck to the same Hindu religion through ages past, were, although their throats parched with thirst, not allowed to take even a drop of water.

Thus, led for the first time in their history by a great leader of their own, the Untouchables were marching to vindicate their rights. They all displayed discipline, energy and enthusiasm. The march wended its way through the streets of Mahad and terminated at the Chawdar Tank. Dr. Ambedkar himself was now standing on the verge of the Tank. Enlightened among the enlightened, the equal of any erudite man on earth, a Hindu of noble aspirations, yet unable even to take water from a public watercourse or to read in a public library in Hindustan, the land of his birth and faith, was now defying the arrogance of the tyrants, exposing the baseness of a people who boasted that their religion treated even animals with forbearance, but who treated their co-religionists worse than cats and dogs.

Dr. Ambedkar took water from the Tank and drank it. The vast multitude of men followed suit and vindicated their right. The processionists then returned peacefully to the pandal.

Two hours after this event, some evil-minded caste Hindus raised a false rumour that the Untouchables were also planning to enter the temple of Veereshwar. At this a large crowd of riffraff armed with bamboo sticks collected at street corners. All orthodox Mahad was up in arms and the whole town at once became a surging mass of rowdies. They said that their religion was in danger, and strangely enough they clamoured that their God, too, was in danger of being polluted ! Their hearts fluttered, their hands shivered, and their faces were ablaze with anger at this humiliating challenge.

Enraged at this misconstrued outrage on their religion and at the thought of defilement of the temple of Veereshwar, the caste Hindus dashed into the pandal of the Depressed Classes Conference. Many of the delegates were at that time scattered in

small groups in the city. Some were busy packing and a few were taking their meals before dispersing for their villages. The majority of the delegates had by now left the town. The rowdies pounced upon the delegates in the pandal, knocked down their food in the dust, pounded the utensils and belaboured some before they knew what had happened. There was utter confusion in the pandal. Up-till now the orthodox had lost their conscience. They now showed signs of losing their senses !

Untouchable children, women and delegates, who were strolling in the streets of Mahad, were frightened at the sudden sweep of this event. Stray individuals amongst them were beaten. They had to run into Muslim houses for shelter. The local Mamlatdar and the Police Inspector, who failed to check the rowdies, saw Dr. Ambedkar in this matter at four O'clock in the evening at the Travellers Bungalow where Dr. Ambedkar and his party were staying during the days of the Conference. "You control others, I will control my people," said Dr. Ambedkar to the officers, and he hurried to the scene with two or three of his lieutenants. In the street a batch of rowdies mobbed him, but he calmly tried to soothe them by telling that there was no desire nor any plan on their part to enter the temple. He went ahead, saw things for himself and returned to the Bungalow. Up to this moment about twenty persons from the Untouchables were seriously wounded. A doctor was sent for. He came. He jeered at them for their "ill-timed" adventure and dressed their wounds !

The rowdies then began patrolling the main streets and assaulting members of the Depressed Classes who were in stray batches on the way to their villages. But the most reprehensible part of their conduct was that they sent messages to their henchmen to punish the delegates of the Conference in their respective villages. In obedience to this mandate assaults were committed on a number of Mahar men and women either before or after they had reached their villages.

Meanwhile, this news of the brutal attack on the delegates spread like wild fire. When Dr. Ambedkar returned to the bungalow, he saw about a hundred men impatiently awaiting his

orders, their eyes literally blazing with fire and their hands itching for retaliation and revenge. Their leader, however, appealed for peace and discipline. There was hushed silence for a while. A word of provocation from Dr. Ambedkar would have turned Mahad into a pool of blood and destruction. The number of delegates still lingering in the town, in the pandal and in the Bungalow together could have easily outnumbered the hooligans and battered down their skulls. Hundreds among the Untouchables were men who had seen, fought, and moved actively in the theatres and battles of the First World War.

But discipline was wonderfully maintained at the behest of their leader. They set their faces against the aggressors. Their struggle was non-violent and constitutional. They did not dream of breaking the law. Thus a more serious riot was averted. At nightfall all the delegates left for their respective villages. Dr. Ambedkar with his lieutenant, Anantrao Chitre, left the bungalow as it was booked by a Government Officer from that evening, and took up his residence in the police station rooms. He completed his inquiry into the riot and returned to Bombay on 23rd March.

Policemen appeared on the scene after the storm was over. They arrested some of the orthodox rowdies as trespassers. Out of the nine orthodox Hindu heroes, five who were found to be most valorous, were, afterwards on June 6, 1927, sentenced by the District Magistrate to four months' rigorous imprisonment. Dr. Ambedkar was not far from truth when he remarked that had not the chief officers in the District been non-Hindus, justice would not have been administered impartially to the Untouchables. Under Peshwa rule, he said, he would have been trampled to death by an elephant. And it was the Peshwa rule under which Untouchables were not allowed to enter the city of Poona during certain hours by day-time, and when they were admitted at other times they had to walk in the city with earthen pots hanging from their necks to spit into."¹

¹: Keer, Pp. 69-71, 73-77.

Mahad Conference-Report By 'The Bombay Chronicle'

A Conference of the Depressed Classes of the Kolaba District was held at Mahad on the 19th and 20th instants [*i.e.* of March 1927] under the Presidentship of Dr. B. R. Ambedkar, Bar-at-Law. The attendance of the Depressed Classes was over 2,500 and great enthusiasm prevailed. But the work of the Conference was severely marred by a riot, the responsibility for which rests entirely upon the upper class Hindu residents of the town of Mahad. On the first day of the Conference after the President had delivered his address, several Upper Class Hindus addressed the Conference assuring the Depressed Classes that, they were willing to help them in all ways and urging that the Depressed Classes should not cultivate hatred of the Upper Class Hindus. In pursuance of this the Subjects Committee drafted a resolution among others laying down what the Upper Class Hindus should do for the uplift of the Depressed Classes. In the Subjects Committee attention was drawn by some people to the fact that there was a great difficulty at Mahad for the Depressed Classes in obtaining water for drinking purposes and that this difficulty was felt not only by the resident Depressed Classes of Mahad but also by the Depressed Classes from villages who resorted to Mahad for private business or for the purposes of Government work. So great was the scarcity that water worth Rs. 15 had to be bought each day to satisfy the needs of the Conference. The Municipality of Mahad had sometime ago passed a resolution declaring the tanks in the city to be open to the public but as it had not placed a board there, people feared to resort to them. The Subjects Committee, therefore, decided after taking the sense of the upper classes who attended the Conference in this matter, that the Conference should go in body to the Chawdar Tank and help the Depressed Classes in establishing their right to take water.

A False Rumour

When, therefore, the Conference met on the morning of the 20th, and the first resolution which declared what the Upper Classes should do for the Depressed Classes was put before the Conference by members of Depressed Classes the President requested Messrs Purushottam Prabhakar Joshi and Govind

Narayan Dhariya [as representatives of the upper classes] to speak on the resolution. With the exception of one clause in the resolution dealing with inter-marriages they both accepted the resolution. Having thus assured itself that there was general support behind it the Conference when the Session was over, went in body to the said tank. The procession was a most peaceful one and everything passed off quietly. But after about two hours some evil minded leaders of the town raised a false rumour that the Depressed Classes were planning to enter the temple of Vireshwar, whereupon a large crowd of riff raffs, all armed with bamboo sticks were collected. The crowd soon became aggressive and the whole town at once became a surging mass of rowdies who seemed to be out for the blood of the Depressed Classes.

Twenty Wounded

The Depressed Classes were busy in taking their meal before dispersing to their villages. When a large part of them had left the town the rowdies entered the kitchen where the Depressed Classes were taking their food. There would have been a regular battle between the two forces; but the Depressed Classes were held back by their leaders and thus a far more serious riot was averted. The rowdies finding no occasion for provocation began patrolling the main street and assaulting the members of the Depressed Classes who in stray batches were passing along on their way to their villages and committed trespass in the houses of several Depressed Class people and gravely assaulted them. In all, the number of wounded, among the Depressed Classes is supposed to be as large as 20. In this the attitude of the Depressed Classes was commendable whereas the attitude of many of the Upper Classes was unworthy. The Depressed Classes assembled vastly out-numbered the Upper Classes. But as the object of their leaders was to do everything in a non-violent and absolutely constitutional manner they set their faces against any aggression on the part of the Depressed Classes. It speaks a great deal in favour of the Depressed Classes that although the provocation given to them was immense they kept their self-control. The Mahad Conference has shown that the Upper Classes are not willing to allow the Depressed Classes to enjoy such elementary civic rights as taking water from public water-courses.

The most reprehensible part of the conduct of the Upper Caste Hindus in Mahad and Kolaba District was that messages were sent immediately to the different villages asking the upper class people there to punish the delegates of the Conference as soon as they returned to their respective villages. In obedience to this mandate assaults were committed on a number of Mahars returning from the Conference either before or after they reached their villages where the Depressed Classes have the disadvantage of being overwhelmingly out-numbered by the Upper Caste Hindus. The leaders of the Depressed Classes have appealed to the authorities for protection and the District Officials including the D. S. P. are making enquiries on the spot. It must, however, be stated that if the Resident Magistrate had not allowed two precious hours to pass without doing anything the riot would have probably been averted.”

“Thus ended the first big, open Conference of the Depressed Classes in Maharashtra and their first public attempt to assert their civic rights. This Conference was a great and momentous event, the opening of an epoch in the history of Hindustan. It was an event which changed both Dr. Ambedkar’s personal life and the current of social and national reorganization.

Under the leadership of their saviour, the down-trodden, the dehumanised and dumb millions opened a new chapter in the annals of India. They not only voiced their age-long grievances but also took on themselves energetically to mitigate them. They now summoned up courage and showed the right spirit in standing boldly and shaking off the dust from their feet and faces.

The struggle inaugurated by their educated leaders gripped their minds and enkindled the flame of self-respect and self-elevation. They now smarted under the insults and humiliations inflicted upon them at Mahad. They applied their minds to self-improvement and self-culture as never before. As a result of this Conference, the Untouchables gave up eating carrion, skinning carcasses, and stopped begging for crumbs.

And what happened to the Chawdar Tank that was declared to have been desecrated by the touch of untouchable Hindus ? The orthodox and reactionary Hindus called a meeting at the temple of

Veereshwar to consider the question of the purification of the tank. They had a remedy for purifying any damned and polluted earthly thing. To them a mixture of cow-dung, cow-urine, curd and water was the potent remedy for all manner of pollution. Accordingly water in one hundred and eight earthen pots was taken out from the tank. These pots full of curd, cow-dung, milk and cow-urine were dipped in the tank in the midst of air-rending *Mantras* uttered by Brahmin priests, the elect. It was then declared that water was purified for the use of the caste Hindus. Of course, Mohammadans and Christians had nothing to do with the act or process of purification. For, in their eyes human touch did not pollute water. They used the water of the tank as before without any interruption.*

The news of the so-called purification of the Chawdar Tank lacerated the hearts of the Depressed Classes, and so deep was the wound on Dr. Ambedkar's heart that he grew indignant and decided to launch a *satyagraha* struggle for the vindication of his people's rights. Some feared that this 'impatient' remedy was worse than the disease. Dr. Ambedkar, in a mood of righteous indignation, replied that mere spread of education and exposition of the scriptures would not be able to root out that age-long disease. The disease, he said, was deep-rooted and merely dressing it with bandages of knowledge or ingenuous schemes would not cure it. Deadly diseases required drastic remedies.

Accordingly, it was announced on June 26, 1927, in the *Bahishkrit Bharat* that those members of the Depressed Classes who wanted to wash out the stigma of pollution attached to their whole class by the Mahad Hindus by their act of purification of the Tank, and who wanted to denounce the act of assaults committed on their representatives for having taken water from the Chawdar Tank, should enlist themselves at the office of the

*See Appendices-I, II and III.

Bahishkrit Hitakarini Sabha in Bombay. It was declared that the *satyagraha* struggle was to be launched under the auspices of the said institution.”¹

Police Report of Agitational Programme of Dr. Ambedkar :

I

“The Depressed Classes at Mahad : Protest of Bombay Untouchables against the atrocities inflicted on.....

Bombay City S. B., July 4, 1927.—Under the auspices of the *Bahishkrit Hitakarini Sabha*, a public meeting of the Depressed Classes was held at the Cowasji Jehangir Hall on the evening of July 3 to protest against the hardships inflicted on the Untouchables of Mahad in Kolaba District. Dr. Bhimrao Ramji Ambedkar, Bar-at-Law, presided over an audience of about 1,000 people.

Speeches were made by the president, Ragoba Narayan Vanmali, Mahadeo Abaji Kamli, Sitaram Namdeo Shivtarkar, Nirmal Limbaji Gangavane, Gitanand Brahmachari and Samant Nanji Marwari, condemning the treatment meted out to their brethren in Mahad by the Higher Classes. They decided, in order to carry on a peaceful agitation against this treatment, to enlist volunteers and collect funds. They would first have a conference at Mahad after the *Diwali* holidays and then it would be decided to start *Satyagraha* in order to enforce their rights as citizens. A resolution to this effect was passed.

Another resolution was passed requesting the Government to establish a separate department to deal with the grievances of the Depressed Classes as was done in Madras.

An appeal for funds was made by the speakers and about Rs. 350 were collected. A dozen people consented to become volunteers for the *Satyagraha* movement when it is started.”²

¹ : Keer. Pp. 77, 79, 89-90.

² : Bombay Secret Abstract, dated 16th July 1927.

II

“Satyagraha of Untouchables at Mahad

“At a conference of Mahars, Mangs, Bhangis, etc., held at Mahad in Kolaba District in March last, the delegates were prohibited by orthodox people from using the water of the village tank and the prohibition is reported to have resulted in a criminal case against those who took the law into their own hands. Since this incident there has been some excitement among the Untouchables of Bombay in which Dr. Bhimrao Ramji Ambedkar, Bar-at-Law, has been taking the lead.

In connection with this, a meeting of about a thousand Untouchables was held at Sir Cowasji Jehangir Hall under the presidency of Dr. B. R. Ambedkar on the afternoon of October 30. The president explained the facts which led to the incident at Mahad and which compelled the Untouchables to stand up for the protection of their rights. A resolution was passed by which it was decided to hold a conference at Mahad on December 25 in order to establish their right of using water at the public tank and in the event of any prohibition to launch a *Satyagraha* movement. About Rs. 570 were collected at the meeting. There was also a suggestion from the audience to launch a similar campaign in connection with a temple at Amravati in the middle of November.”¹

¹: Source Material Vol. I, P. 13.

III

No. H/3447

dated 22nd December 1927.

“To,
The D. S. P.,
Kolaba, Alibag.

Sir,

Reference.—Para 868 of the B. S. A. current.

In this connection a meeting of the Depressed Classes was held on the night of 21st instant when Dr. B. R. Ambedkar, Bar-at-Law presided over an audience of about 250 people. The President, Sambhaji Santoji Waghmare, Nimandarkar, Kholwadekar and Junnarkar made speeches advising the people to join the *Satyagraha* Movement which is coming off on the 25th instant at Mahad in connection with the prohibition against the Untouchables' use of the water tank.

I have & c.

(Sd.)

D. C. P., S. B.

22nd December 1927.”¹

“Meantime, the Mahad Municipality revoked on August 4, 1927, its resolution of 1924 under which it had declared the Chawdar Tank open to the Depressed Classes. Dr. Ambedkar accepted the challenge and on September 11, at a public meeting in Damodar Hall, Bombay, a committee was formed to devise ways and means to make the struggle for re-establishing the right of the Depressed Classes to the Mahad Tank a success, and to fix the dates and details. Four days afterwards the committee met at Dr. Ambedkar's office and announced December 25 and 26, 1927, as the dates for offering the *satyagraha*.

The day of the proposed Conference and the *satyagraha* at Mahad was drawing near. Mahad began to stir again. The opponents of the struggle held a meeting on November 27, 1927, at the Veereshwar Temple to formulate a plan to flout the attempts of Dr. Ambedkar and the Depressed Classes to take water from

¹: Source Material, Vol. I, Pp. 13-14.

the Chawdar Tank. But owing to the presence of the sympathisers of the Depressed Classes the meeting ended in pandemonium. Some Poona Hindu leaders tried to dissuade the caste Hindus from opposing the struggle, but to no purpose.

The District Magistrate visited Mahad on December 7, and the leaders of both the sides discussed the question with him. He asked the caste Hindus to have recourse to law and refused to issue an order prohibiting the Untouchables from taking water from the Chawdar Tank. The leaders of the orthodox section, therefore, filed a suit against Dr. Ambedkar, Shivtarkar and Krishnaji S. Kadam and Ganya Malu Chambhar of Mahad—leaders of the Depressed Classes—on December 12, 1927, in the Civil Court at Mahad and asked for the issue of a temporary injunction. The Court issued a temporary injunction on December 14, against the defendants pending the decision of the suit. Accordingly notices were served on Dr. Ambedkar, Shivtarkar and Krishnaji S. Kadam, prohibiting them and all the Depressed Classes or on their behalf these three leaders from going to the Chawdar Tank or from taking water from the Tank until further orders. The orthodox and reactionary forces shrewdly enough forced on Dr. Ambedkar a fight on two fronts. On the one side was standing an indifferent foreign Government and on the other was the caste Hindu section headed by the Orthodox Brahmins.”¹

Text of Temporary Injunction in Chawdar Tank Case

ORDER

“This is an application asking the Court to grant to the applicants a temporary injunction restraining the opponents from going to the Chawdar Tank or taking water therefrom. The applicants have, on 12th 1927, filed in this Court, Regular Suit No. 405 of 1927, for obtaining a Declaration that the said Chawdar Tank is of the nature of private property of the touchable classes only and that the Untouchable Classes have no right to go to that tank nor take water therefrom and also for obtaining a perpetual injunction restraining the Defendants from doing any of these acts.

¹:Keer, Pp. 90 and 97-98.

The applicants, by this application pray that pending the disposal the suit, a temporary injunction may be issued against the Defendants. The application states, among other things, that hundreds of years since the tank has been in the exclusive enjoyment of the touchable classes only, that on 19th March 1927. a number of persons of the Untouchable classes led by Defendant, all of a sudden entered the tank, washed their hands and faces with the water and thus contaminated it, that in consequence of this contamination the touchable classes could not take water from the tank for over 24/25 hours *i.e.* until the water was purified, at a great cost, by performing ceremonies laid down by the Hindu *Shastras*, that great hardship was thus caused to the touchable classes, that the Untouchable classes have issued a manifesto proclaiming their intention of again entering the Tank and taking water therefrom, that if they are allowed to do that, the touchable classes will be debarred by the *Shastras*, from using the water of the Tank, that serious hardship would thus result to them and that if a temporary injunction as asked for is not granted and the Defendants allowed to contaminate the water of plaintiffs even if they finally succeed in the suit would not reap the benefit of the decree.

The application is supported by the affidavits of several persons besides Plaintiff No. 1. Plaintiffs have also produced with exhibit 4, a notice issued by the Municipality against one Divakar Joshi (one of the persons making an affidavit) calling upon him to repair his stone Dhakkas (dams) which adjoined the side of the Chawdar Tank, and also a deed of partition of Dharap family alleged to be more than a hundred years old. This deed contains a reference to the Pal of the tank as being one of the properties partitioned. Both these documents raise a 'Prima facie' presumption of the tank being private property.

The question now is, whether it would be more just to grant a temporary injunction to refuse it. The law regarding temporary injunctions is contained in order 39 of the Civil Procedure Code. Rule of this order is as follows:—Where in any suit it is proved by affidavit or otherwise (a) that any property in dispute in suit, is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully said in execution of a decree or (b) that the

Defendant threatens, or intends, to remove or dispose of his property with a view to defraud his creditors, the Court may by order grant a temporary injunction. Clause (b) has obviously, no application to the present case. The present case appears to come within clause (a).

Here is a Tank which has, for years since, been in the exclusive enjoyment of the touchable classes. The manifesto issued over the signatures of the Defendant¹ and other also shows that the Untouchable classes were upto now under the impression that they had no right of access to the tank. It thus appears that the tank has been until now in the exclusive enjoyment of the touchable classes. The question now is, whether the ends of justice would be better met by disturbing this old state of things or by allowing it to continue until the rights of the parties have been finally decided.

The principles governing temporary injunctions have been summarised under part 2 of Mulla's Commentary on the Civil Procedure Code, 8th edition page 892. One of these is that the Court must see that there is a bonafide contention between the parties. About this there appears to me to be very little doubt. The second principle is, "on which side, in the event of success, will lie the balance of inconvenience if the injunction does not issue." To me it appears that the balance of inconvenience will lie, and lie very heavily, on the side of the Plaintiffs if an injunction is not issued. The point is so clear that I do not think I need labour it at all.

If the Defendants are allowed to enter the tank and thus (according to the religious notions of the Plaintiffs) contaminate the water and render it unfit for further use, a large section of the population will be put to hardship and inconvenience which will be so severe that only those living in places where there are no copious supply of water, can realise it. On the other hand, the Defendants will not be put to any inconvenience what so ever, if they are asked to forbear from exercising what they consider to be their right, until the first decision to the suit. This course appears to me not only just and equitable, but the only right course under the circumstances in order to maintain the *status quo*, which, it is imperative to do. Vide the remark appearing at I. L. R. 46, Calcutta, page 1030, it is also contended

by the applicants (Plaintiffs) that if a temporary injunction as asked for is not granted and the water of the tank is allowed to be contaminated, irreparable injury would result to the Plaintiffs. Taking into consideration, how sensitive the touchables classes generally are on this point, both on account of their religious susceptibilities, as well as the wide gulf which has existed between the two communities from time immemorial, I am inclined to attach very great weight to this condition. I have no doubt that the spread of education will, in course of time, materially alter these conditions and bring the two communities in a clear and friendly contact with each other and that Untouchability will be a thing of the past. But as things at present stand, I am bound to attach great weight to the sentiment of the applicants who feel that, the injury that will sustain if the water is allowed to be contaminated, will be that it would not admit of being adequately compensated by damages.

Taking all these circumstances into consideration, I think I would be failing in duty if I were not to refuse the injunction prayed for. It is a very painful duty that I am called upon to perform, but the call of duty leaves no room for choice. I therefore order that a temporary injunction as asked for, with notice be issued.

14-12-27.

(Sd.)—G. V. Vaidya ”¹

On the side of Depressed Classes “Elaborate preparations for holding the Conference were made. As no Hindu landlord allowed the use of his land for the pandal, a site for the Conference was secured with great difficulty from a Muslim. As the local merchants refused to have any dealings with the men connected with the Conference, the Reception Committee had to purchase corn and other materials from out-side, sufficient to last for ten days. Anantrao Chitre managed the work very efficiently. Subhedar Ghatge was entrusted with the food arrangement and maintenance of order and discipline. All the Chief Government Executives of the District gathered at Mahad on December 19. Police were posted on all sides of the Chawdar Tank. Delegates and spectators began to pour in

¹: Khairmode, Vol. 3, Pp. 234—237.

Mahad from December 21. The District Magistrate visited their camp every day to dissuade the delegates from the proposed *Satyagraha*.

With a batch of two hundred delegates and leaders, Dr. Ambedkar left Bombay on the morning of December 24. The next day they got down at noon at Dasgaon, five miles off Mahad. There, with anxious faces, an army of 3,000 *satyagrahis* awaited their leader. When they saw their leader, they greeted him with tumultuous applause.

After the reception, the Police Superintendent handed over a letter from the District Magistrate to Dr. Ambedkar, requesting him to see the District Magistrate at his Mahad office without loss of time. Dr. Ambedkar, with one of his lieutenants, Sahasrabudhe, hurried to his office. The District Magistrate in a swift and soft tone advised, argued and pressed for the postponement of the struggle; but the leader did not see eye to eye with the Chief Executive of the District. It was however, agreed that he should be given an opportunity to address the Conference. In the meanwhile, the procession of the delegates had left Dasgaon and accompanied by police officers, it reached Mahad at half past two in the afternoon, singing songs which were punctuated by sky-rending slogans. The vast crowd entered the pandal amidst shouts of 'Shivaji Maharaj ki Jai'. In the pandal proverbs hanging from pillars displayed inspiring immortal truths. In front of the gate there was a pit.

After his interview with the District Magistrate, Dr. Ambedkar hastened to the pandal and had his lunch in the company of his common followers. He refused to have any special food.

The Conference commenced its proceedings at four-thirty in the evening. Messages from several prominent persons wishing the *satyagraha* success were read out. Then the leader rose to address the Conference amidst deafening cheers, shouts and slogans raised by a mammoth gathering of fifteen thousand people. A majority of them had no clothes to their backs. Their old turbans were torn, their chins were unshaven; but their sunburnt faces shone with a peculiar enthusiasm and hope. The vast audience calmed down, and Dr. Ambedkar began his speech in a low, dignified but forceful voice."¹

¹: Keer, Pp. 98-99.

“Dr. Ambedkar’s Plea for Abolition of Social Disabilities

Following is a summary of the Presidential address of Dr. B. R. Ambedkar, M.A., Ph.D., D.Sc., Bar-at-Law, M.L.C.. delivered at the *Satyagraha* Conference at Mahad (District Kolaba) held on the 25th December 1927.

Welcoming the *Satyagrahis* on behalf of the *Satyagraha* Committee, of which he is the president, Dr. Ambedkar reminded them of the unfortunate ending of the Conference held at the same place in March last when a number of their fellow delegates had been ill-treated and assaulted by the so-called Caste-Hindus for committing the offence of drawing the water from a Public Tank named “*Chawdar*”. Nobody prevented the members of the Depressed Classes from using the water of the tank, but some ringleaders took it into their heads to punish the delegates of the Conference after the event and incited the mob to commit assaults on them. Some of the offenders were prosecuted, convicted and sentenced to four months’ imprisonment.

Continuing Dr. Ambedkar said: “Had the caste-Hindus admitted the right of the Depressed Classes to use the tank, this *Satyagraha* would not have been necessary. Unfortunately, however, the Caste-Hindus at this place are obstinate in their attitude and refuse to admit the right of the Depressed Classes to use the Public Tank which is open to persons of all castes including Mahomedans and other non-Hindus. The irony of the situation is that although the cattle owned by the so-called Untouchables are allowed to go, their owners, who are as good human beings as the other people, are prohibited from going to the tank.

The Hindus are known for their humanitarian sentiments and their regard for animal life is proverbial. Some section do not kill even poisonous reptiles. The Hindus maintain a large army of *Sadhus* and able-bodied beggars, and believe that they acquire merit by feeding and clothing them and giving them cash for indulging in luxuries. The Hindu philosophy teaches the doctrine of an all-pervading soul, and the *Geeta* exhorts them to make no distinction between a Brahmin and a Chandal.

The question therefore arises why the Hindus having such traditions of charity and humanity and possessing such grand philosophy should behave so heartlessly towards their fellow human beings and in such unreasonable ways. In the reply to this question lies the real significance of this Conference. The Hindu Community is set in the steel-frame of the caste system, in which one caste is lower than another in social gradation involving particular privileges, rights, inhibitions and disabilities with regard to each caste. This system has created vested interests which depend upon maintaining the inequalities resulting from the system.

The so-called Caste-Hindus are bitterly opposed to the *Panchamas* (person belonging to the fifth class, the Depressed Class) using a public tank not because they really believe that the water will be thereby spoiled or will evaporate if Mahars and others use the tank, but because they are afraid of losing their superiority of caste and of equality being established between the former and the latter. We are resorting to this *Satyagraha* not because we believe that the water of this particular tank has any exceptional qualities, but to establish our natural rights as citizens and human beings.

Struggle for Equality

This Conference is held to unfurl the banner of *Equality* and thus may be likened to the National Assembly in France convened in 1789. Our Conference aims at the same achievement in social, religious, civic and economic matters. We are avowedly out to smash the steel-frame of the caste-system.

Low Aim Is A Crime

Some men may say that this should be satisfied with the abolition of Untouchability only, leaving the caste-system alone. The aim of abolishing Untouchability alone without trying to abolish the inequalities inherent in the caste-system is a very low aim. Let us remember "not failure but low aim is a crime". Let us probe the evil to its very roots and be not satisfied with mere palliatives to assuage our pain. If the disease is not rightly diagnosed the remedy will be useless and the cure may be postponed.

Not only Untouchability and restrictions regarding intercaste-dining must be removed, but inter-marriages among the Hindus of various castes must be made common. This alone will lead to the establishment of true-equality. Even supposing that the stigma of Untouchability is wiped out, what will be the status of the present Untouchables. At the most they will be treated as '*Shudras*'. And what are the rights of the '*Shudras*'? The '*Smrities*' treat them as mere zealots and the '*Smrities*' are the guides of the caste Hindus in the matter of gradations in the caste system. Are you willing to be treated as '*Shudras*'? Are you willing to accept the position of zealots? Are you prepared to leave your fate in the hands of the upper class?

Self-Help

That the caste-system must be abolished if the Hindu Society is to be reconstructed on the basis of equality, goes without saying. Untouchability has its roots in the caste-system. They cannot expect the *Brahmins* to rise in revolt against the caste-system, because that system confers on them certain special privileges and they will not willingly give up their privileged position and the present supremacy in the hierarchy of Hinduism as based on *Smrities*. It would be too much to expect them to resign all their privileges as the '*Samurais*' of Japan did. Also we cannot rely upon the Non-Brahmins and ask them to fight our battle. Many of them are still enamoured of the caste-system and are tools in the hands of the Brahmins, and most of these others who resent the supremacy of the Brahmins are more interested in levelling down the Brahmins than in levelling up the suppressed classes. They too want a class of people on whom they can look down and have the satisfaction of not being quite the under-dogs of the Society. This means that we ourselves must fight our battles, relying on ourselves. We are the most downtrodden classes in the country. Services in the army, police and public offices are practically closed to us. We are debarred from following a number of trades and professions and we have been reduced to utter economic helplessness. All this is due to the Untouchability and the lowest social position to which we have been relegated. Should we fail to assert our rights as human beings and citizens we shall have to remain fallen forever.

A Real Service to the Nation

Ours is a movement which aims at not only removing our own disabilities, but also at bringing about a social revolution, a revolution that will remove all man-made barriers of caste by providing equal opportunities to all to rise to the highest position and making no distinction between man and man so far as civic rights are concerned. If we achieve success in our movement to unite all the Hindus in a single caste we shall have rendered the greatest service to the Indian nation in general and to the Hindu community in particular. The present caste-system with its invidious distinction and unjust dispensations is one of the greatest sources of our communal and National weakness. Our movement stands for strength and solidarity; for equality, liberty and fraternity. We wish to carry on our movement as peaceful as we can. However, our determination to remain non-violent will to a large extent depend upon the attitude of our opponents. We are not the aggressors and our oppressors for generations should accuse us of aggression a strange thing. We refuse to be controlled and bound by the ‘*Shastras*’ and ‘*Smrities*’ composed in the dark ages and base our claims on justice and humanity.”¹

Thereafter “Mr. G. N. Sahastrabuddhe, a Brahmin, read extracts from *Manusmriti* those portions which related to the treatment to be meted out to the *Sudras*.

Burn Manusmriti

The first resolution passed ran as follows :—

Taking into consideration, the remarks in the *Manusmriti* and such other books which are most vulgar and which most flagrantly violate the human rights, this meeting condemns them emphatically and as an expression of that condemnation resolves to burn them and makes the following declaration of rights to form the basis of reconstruction of Hindu Society.

The declaration stated that all Hindus should be considered as one of *varna* and should be recognised and called as such and law should be enacted prohibiting the use of class words as Brahmin, Kshatriya etc.

¹: The Indian National Herald, dated 28th December 1927.

A place at Mahad where Manusmriti was burnt



The bonfire of *Manusmriti* was quite intentional. We made a bonfire of it because we view it as a symbol of injustice under which we have been crushed across centuries.

—Dr. B. R. Ambedkar

Another resolution urged that a competitive examination be held for the admission of persons to the Hindu priesthood and that licenses be issued only to the successful candidates.

The speeches were mainly denunciations of Brahmins and Brahminism. Mr. Mandlik asked permission to address the meeting but the President refused permission.

Mr. D. V. Pradhan, a touchable also supported the burning of the *Smriti*.

The ceremony of burning the *Smriti* * then took place and the conference concluded for the day.”¹

“ The bonfire of the *Manusmriti* by Dr. Ambedkar and his followers on 25th December 1927, anticipated this age. While speaking of bonfire of *Manusmriti*; Dr. Ambedkar in an interview with T. V. Parvate in 1938, said “The bonfire of *Manusmriti* was quite intentional. We made a bonfire of it because we view it as a symbol of injustice under which we have been crushed across centuries. Because of its teaching, we have been ground down under despicable poverty and so we made the clash, staked all, took our lives in our hands and performed the deed.”²

“The Collector, the Superintendent of Police and 100 armed police were present. In the night *harikirtan* composed by an “Untouchable” and hitting at Brahmins was enthusiastically sung.

Collector’s Letter

Second day’s proceedings of the Conference began on the morning of the 26th. Dr. Ambedkar read a letter from the Collector which said that it was the desire of Government that the “Untouchables” should obey the injunction of the Civil Court. Government were always sympathetic to the cause of the Untouchables and were willing to advance their cause in every lawful way and help them to establish their right of access to places of public utility. But, in view of the temporary injunction granted, Government were helpless and desired that the Untouchables should not embark on *Satyagraha* at this moment.

* Manusmriti.

¹: The Indian National Herald, dated 31st December 1927.

²: Parvate, Pp. 58-59.

The whole Conference converted itself into Subjects Committee when Dr. Ambedkar reviewed the whole situation and advised the delegates to embark on *Satyagraha* against the Civil Court's injunction provided the delegates were prepared for the consequences of their action and to undergo imprisonment and other sufferings in a cheerful and voluntary manner.

The sense of the Conference was strongly in favour of the advice to embark on *Satyagraha* immediately and the President had difficulty in getting a hearing for any speaker who was for postponement of *Satyagraha*.

More Than 3,000 Volunteers Sign Pledge

Dr. Ambedkar then suggested that to gauge correctly the intensity of feeling, those delegates who were in favour of *Satyagraha* should be asked to give their consent in writing for practising *Satyagraha*. Accordingly, the registration of delegates willing to practice *Satyagraha* was commenced and within one hour, 3,884 delegates had registered their names as ready to offer *Satyagraha*.

The Collector was informed that the Conference was in favour of *Satyagraha* on hearing which the Collector expressed a desire to address the Conference personally.

Collector Addresses Conference

The *Satyagraha* Conference assembled at 5-30 p.m. when Mr. Hood, the Collector, accompanied by the Superintendent of Police attended the Conference. The Collector addressed the meeting in Marathi. Mr. Hood said: "I know why you have all gathered in this Conference. I know also that if I advised you to defer *Satyagraha* you would all very much regret it as you have been preparing for this for the last three months. You all, however, know that the Bombay Legislative Council has passed a resolution to the effect that the "Depressed" Classes be admitted to the public tanks and schools and that the Bombay Government have instructed accordingly and have also advised the Local Board to do the same. The Government are quite willing, Mr. Hood said to admit them to the tank but 10 days ago there has taken place a new development. The touchables have filed a suit against the "Untouchables" contending that the tank was a private one and a temporary injunction has been granted in their favour.

“I am speaking to you as the Collector of the district and I wish to assure you on behalf of the Government that the Government are on the side of “Untouchables” and to tell you that the Government and I, are your friends. I regret very much to see that some of you intend to offer *Satyagraha* by disobeying the order of the court. This action, I consider, will be very harmful, I advise you to prepare your case and fight it constitutionally and legally. I sincerely hope that the decision may be in your favour.”

Mr. Jawalkar who had come in the morning said he had come to the Conference to deliver the message of the Non-Brahmin party namely that the “Untouchables” should obey the injunction of the court and offer *Satyagraha* after the decision of the court.

Subhedar Ghatge and other speakers said they had come there to offer *Satyagraha* against the touchables and not against the Government.”¹

“The Collector was then led by Dr. Ambedkar out of the pandal. Till seven in the evening, speaker after speaker supported the launching of *Satyagraha*, and those who uttered discordant notes were booed and heckled. Dr. Ambedkar again adjourned the discussion till the next morning.

At night the chief men gathered together, held discussions and decided to postpone the struggle in view of the case pending before the court, but it was also decided to march in procession winding its course around the tank. Accordingly, this decision was notified to the District Magistrate.

On the morning of December 27, Dr. Ambedkar rose to withdraw the first resolution on the struggle and to move another resolution amidst breathless silence, asking the Conference to postpone the struggle. He was on the horns of a dilemma. It was now the psychological moment to curb the enthusiasm of the delegates and pin it down. He tactfully began to deal with the critical situation. He said in an appealing tone to the delegates, who had by now grown restless and frantic: “You are a brave people. The people who are prepared to lay down their lives for the vindication of their just rights are sure to prosper. But the

¹: The Indian National Herald, dated 31st December 1927.

moment now has come when you should think twice before you strike the blow. You know well that the *Satyagraha* movement started by Gandhi,” he proceeded, “was backed up by the people as it was against a foreign domination. Our struggle is against the mass of Caste Hindus and naturally we have little support from outside. Taking these facts into consideration. I feel, we should not antagonise the Government and put it on the side of our opposition. It is not beneficial either.”

“Do not suppose,” asserted the leader, “that if you postpone the issue humiliation will be its concomitant. As regards my position, I assure you I am prepared to face the three-fold danger-breaking of an order, being charged with a breach of rules governing the conduct of a lawyer and the possibility of imprisonment. My brothers,” he softly concluded, “you rest assured that a postponement of this struggle will not mean that we have given up the struggle. The fight will go on till we establish our claims to this Tank.”¹

Satyagraha postponed

As a result of deliberations, the following resolution was adopted :—

“Taking into consideration the fact that the touchable classes of Mahad by obtaining a temporary injunction from the Civil Court at the last hour against the “Depressed” Classes bring them into conflict with the Government which had yesterday morning resolved to offer *Satyagraha* have after listening to the Collector and after taking into consideration the assurance given by him in the open Conference that the Government have every sympathy for the Depressed Classes in the struggle for equal rights resolved that *Satyagraha* be postponed till the decision of the Civil Court.”²

¹ : Keer, Pp. 102-103.

² : The Indian National Herald, dated 31st December 1927.

“The Conference agreed. The delegates immediatly formed themselves into a procession and started volunteers with slogans, boards and placards were pacing slowly. The procession reached the Tank and took its round. And what were the Caste Hindus doing? The streets were deserted. They had shut their houses and the Orthodox Hindus were wriggling with excruciating venom in their hearts. After one hour and a half, the procession returned to the pandal about noon without any mishap.”¹

“DR. AMBEDKAR AT RAIGARH

“Untouchables” Bathe in Ganga Sagar Tank

A correspondent writing under date January 5 in “*Kolaba-Samachar* of Pen, says” After the conclusion of the *Satyagraha* Conference Dr. Ambedkar proceeded to Raigarh, the famous fortress and the capital of Shivaji, in company of about a hundred Untouchables. He encamped in the Raigarh *Dharmashala* and the watchmen of that place, one Yesu Shedge, a Mahratta by caste and maintained by the *Dharmashala* Committee, looked after the requirements of the visitors. He asked them not to touch the waters of the Gangasagar Tank. He suggested that if they wanted to take bath, they could do so in another tank nearby, specially built for the Untouchables. Dr. Ambedkar and others, however, “defiled” the waters of the “Gangasagar.”

The correspondent adds that this has led to great excitement among the Mahrattas of the Raigarh valley, most of whom are *sepoys* in the army, the valley being a good recruiting field.”²

Comments

“Commenting editorially on this episode, “*Kolaba-Samachar*” in its issue for January 7 refers to the methods followed by Dr. Ambedkar pointing to a suggestion made in its columns that Government should see its way to prosecute Dr. Ambedkar and his followers. The paper sets its face against the suggestions on the ground that Indians must do as much as possible to settle their own quarrels and should never invite Government of their own accord, to interferences.”³

¹ : Keer P. 104.

² : The Bombay Chronicle dated 12th January 1928.

³ : Kolaba-Samachar, dated 7th January 1928.

“Maharashtra’s Mind

For some weeks past Dr. Ambedkar and the *Satyagraha* Conference of Untouchables at Mahad have been the subject of much adverse comment not only in the Orthodox Hindu Press but also in journals that are definitely committed to the removal of Untouchability. Most of the Marathi journals came under the second variety and may generally speaking be divided into three classes, *viz*, N. C. O., Responsivist and Non-Brahman. The principal points that these journals make in their attacks against Dr. Ambedkar and his friends are (1) his alleged excess of burning the *Manusmriti*, and (2) his alleged acquiescence in the Kolaba Collector’s order to stop *Satyagraha*. In the whole controversy there are many other charges and countercharges made against either party, but they are not very material. Dr. Ambedkar has now published in “*Bahishkrit-Bharat*” quite a lengthy account of the Conference and met the charges made against him. He does not fight shy of the first accusation against him and defends it by saying that in as much *Manusmriti* ordains and sanctifies the age-long oppression and exploitation of the Untouchable Hindus by the so-called High-Class Hindus, this main source of present day Hindu law deserves to be burnt. While meeting the second charge, Dr. Ambedkar takes the wind out of the sails of his opponents when he states that no gagging order was ever passed against and therefore there never arose any question of disobeying it. All that he did, he was persuaded to postpone the *Satyagraha* to a later day by the Collector of Kolaba and he did entirely in the interests of the *Satyagrahis* and the Untouchables. He leaves perfect liberty to his critics to say anything against him on this distinct ground.”¹

“ The case, Hindu versus Untouchables regarding ownership of Chawdar Tank was fixed for hearing on 12th January 1928 in the Court of Second Class Sub-Judge; Mahad. Dr. B. R. Ambedkar started preparation for pleading the case. He wrote a letter on 24th January 1928 to Advocate Markand Dattatraya Vaidya to

¹: The Bombay Chronicle, dated 27th February 1928.

obtain certain documents and also to attend the Court. He specifically asked Mr. Vaidya to obtain a copy of an affidavit filed by a Brahmin priest namely Mr. Pandurang Bhaskar Shashtri Palaye on 30th January 1928 in favour of Dr. B. R. Ambedkar and other quoting the various quotations from the scriptures. The letter is as under :

BHIMRAO R. AMBEDKAR

M. A., Ph. D., D. Sc,

Bar-at-law

Member, Legislative Council.

Bombay.

My dear Vaidya,

Damodar Hall, Parel

Bombay, 12

24-1-28

I am (in) receipt of your letter of the 12th. I notice that the Court is anxious to have the injunction order argued earlier i.e., before the 5th Feb. Well, I propose to come on Thursday the 2nd of Feb. to argue the matter.

I am sending herewith forms of affidavits which you will please prepare in due form and have them declared in time. You may find some difficulty in getting a Mahomedan butcher (I must have a butcher) to make the affidavit. But if you will see the police Sub-Inspector of Mahad and request him on my behalf, I am sure he will oblige you a copy of an affidavit by a Brahmin priest supporting us which will be declared here.

Give sufficient notice to the Defts, in time of the date and also give them copies of affidavits, so that they would have no cause for complaint. Give my regards to Surba. Let me have your reply by Monday the 30th of January at the latest, informing me if everything is ready for the 2nd of Feb.

With my very best regards I am,

Yours sincerely

Sd/-B. R. Ambedkar”¹

¹: Khairmode, Vol. 3, Pp. 239, 244, 245.

Following is the article by P. R. Lele about Mahad Satyagraha—

“Untouchables will renew Satyagraha

The Untouchable's *Satyagraha* of the famous *Chawdar Tank* of Mahad had to suspend their *Saryagraha* in view of a temporary injunction granted by the Sub-Judge of Mahad restraining Dr. B. R. Ambedkar and others from taking water out of that tank. At that time i.e. December last they had to rest satisfied with holding a Conference and giving emphatic expression in several ways to their resentment against the tyranny of Caste-Hindus.

The delegates and visitors of that Conference organised a huge procession and impressed their strength on the minds of the tyrants. Thereafter Dr. Ambedkar with a select party went round the Mahad Taluka and even to the Raigarh Fort. About his visit to Raigarh, I refrain from saying anything inasmuch as Dr. Ambedkar is contemplating or probably has started legal proceedings against certain papers which are alleged to have given misleading reports.

The tour of this party created a sensation in Mahad Taluka, as a repercussion of which even Mussalmans of a certain villages in the vicinity certain papers who are alleged to have given misleading reports.

Interim Injunction Dissolved

Now the Sub-Judge of Mahad has dissolved the interim injunction. I have not got a copy of the judgement on the interlocutory notice but have definite information that it is a considered and pretty long one.

The Judge has hinted that he was misled when he granted the interim injunction and has virtually expressed sorrow for having been instrumental to what may be called the continuation of an insult and a sore. More than this must not at this stage be said as the main case is still subjudice. For the time, however, this is a distinct victory of a just cause. The assertion of civil rights by the so-called Untouchables can now be made without involving the risk of being jammed in between the judiciary on the one side and the orthodoxy on the other.

In the great *Guruka Bagh* struggle there was at least the wholehearted and unanimous sympathy of the public with the Sikh *Satyagrahis*. In the Mahad affair it was not so. The leaders of the Orthodox Hindus refused to listen to the words of advice of the bosses of Poona or even of the *Hindu Sabhawalas*. Those same leaders though discomfited and repulsed, would not take up a strong attitude in favour of the Mahar *Satyagrahis* when it came to the actual assertion of rights. What had to be postponed can now be taken up again.

The Next Campaign

And it is going to be taken up again, this time with far less risk and far greater chances of success. After the return of Dr. Ambedkar, who had been to Mahad for the case, after delivering his well-informed budget criticism, a public meeting was held in the Damodar Thakarsey Hall, Parel, on Sunday 26th instant.

Dr. Ambedkar in a lucid speech explained the situation as it existed on that day and told his followers to consider the earliest date on which to launch the campaign again. The meeting was attended by more than a thousand members of the Depressed Classes. The hall was packed and on the dais were a few Caste-Hindu Friends of the so-called Untouchables besides a majority of prominent members of the latter classes.

The majority of speeches were by these and were full of sincerity and devotion to their leader Dr. Ambedkar. One of the speakers spoke with the greatest impression because he was amongst those who were assaulted by Caste-Hindus sometime in March last when the first attempt was made to take water from the now famous tank.

At that time it was recklessly circulated that hides were washed in the tank and this assaulted gentleman being a cobbler by caste the story was taken up and a wanton assault was perpetrated on him. As another speaker explained water was actually drawn by him and the assault went vicariously to that other gentleman, whose name is Rajbhoj and who was humourously called Bhoj Raja. One could clearly see life in the meeting of Sunday last.

Within A Month

To see them and to say they were Untouchables would be absurd. All the same in the eyes of the orthodox they were so. They have not only to cure themselves of Untouchability but have to uplift the orthodox who are immersed in the slough of prejudice. Their struggle is an essentially patriotic and essentially human struggle.

With such a huge dead weight the nation cannot rise. So long as equal elementary rights are not conceded and assured to them, Hinduism shall stand shackled and manacled. In asserting their rights and in raising themselves, these warriors of the so-called Untouchable classes are raising the country and the Hindu religion. Dr. Ambedkar is now busy organising the next campaign in right earnest. It has been decided to start it within a month probably on the Hindu New Year's Day when every Hindu house-holder flies a flag. The leaders of these Depressed Classes propose to fly their flag of "equal human rights to all" on that day and, God willing, they will do it." ¹

This is an article by D. V. Pradhan about Mahad *Satyagraha*—

"TRIUMPH OF JUSTICE

When in March last, Dr. Ambedkar led the Untouchables to the Chawdar Tank at Mahad, the orthodox section of the Caste Hindus lost their sleep, appetite and all over the "Sacrilege" and mercilessly belaboured the poor unsupported Untouchables while they were returning from the tank. Soon after, criminal proceedings were taken against the rowdies and they were punished for disturbing the public peace. Every effort was made by these so-called "Protectors" of the religion to oppose the Untouchables from coming near the tank and they were encouraged in their action by the orthodox press. It was to assert their right of ordinary human privileges, the Untouchables launched the *Satyagraha* Movement, and in December last, a conference of about 10,000 assembled and unanimously resolved to march on to the tank. But the Orthodox Caste Hindus who smelt this resolve

¹: The Indian National Herald, dated 28th February 1928.

by their nose got a temporary injunction from the sub-judge of Mahad against the Untouchables using the tank of the ground that it was the private property of one Mr. Chowdhari and the touchable classes. Having secured this respite from the authorities, the touchables thought that they had gained the upper hand at the expense of the Government and the Untouchables. Dr. Ambedkar at once saw through the game, but decided to postpone *Satyagraha* till the civil suit was disposed of. The suit came for hearing on 23rd February 1928 before Mr. Vaidya, the sub-Judge of Mahad, and Dr. Ambedkar by his lucid exposition not only got the injunction cancelled but also convinced the judge the *bona-fide* of their right to use the public tank. Since the ban has been removed, the tank is now to be open for public use as per the resolution of the Bombay Legislative Council.

***Satyagraha* to be Launched**

Now, in a public meeting held on Sunday the 26th February, in Bombay, attended by about 2,000 people, it was resolved to relaunch the *Satyagraha* at Mahad. The *Satyagraha* Committee is meeting shortly, and the exact date will be announced shortly.

Those who are following and studying the Untouchable Movement in this part of the country under the leadership of Dr. Ambedkar can very safely and boldly say that the movement is cosmopolitan in character. It is not simply for the opening of the tank for public use, but a movement of this kind with its manifold activities is directly paving the way for the evolution of the national movement for asserting their ordinary privileges of citizenship. It was only recently that Dr. Ambedkar announced his intention to open khadi centres for the Untouchables and thus help the great constructive programme blessed by Mahatmaji, with Khaddar on body and *Satyagraha* in mind against all evils, this movement is bound to succeed.

One word to my friends. As every good movement has to pass through various stages of obstacles and it will have to meet the friendly foes as well open foes-of whom the former are more dangerous-so also this *Satyagraha* has to face all the obstacles put on the way and come out triumphant at last. I only appeal to my friends that in facing these hardships from friends or foes, they

should not lose under any circumstances their courage, patience and perseverance but carry on the struggle to the successful end in all humility by peaceful and non-violent means.

May God give the strength to my suffering brethren and wisdom to the cast Hindus.”¹

Sub-Judge, Mahad, dissolved Mahad injunction—

Chawdar Tank-No Private Property Magistrate Regrets Grant of Injunction

“I cannot conclude this order without expressing my regret at the inconvenience and hardship caused to the defendants by the injunction granted by me, temporary though it was, and at having been instrumental in heaping one more wrong upon a community already labouring under the most cruel and unjust social wrongs. I dissolve the injunction issued by me”. So said the Sub-Judge while dissolving the injunction against Dr. Ambedkar and others.

It will be remembered that Dr. Ambedkar and others who went to offer *Satyagraha* at Mahad in the matter of taking water from the famous Chawdar tank were prevented from doing so by the injunction granted by Mr. G. V. Vaidya, Sub-Judge, Mahad, as applied for by Mr. Pandurang Raghunath Dharap and others, who claimed that the tank concerned was their private property. It is understood that Dr. Ambedkar and others, as also a number of caste Hindu people have decided to offer *Satyagraha* again. Probably they may restart the campaign on the first day of the Hindu New Year, i.e. about three weeks after, as the injunction against them has now been dissolved on the ground that the said tank is “Government municipal property.”

Why Injunction was granted

Delivering judgment of February 23rd the Sub-Judge observes. “The injunction had been granted on the *prima facie* presumption that the *Chawdar Tank* in suit was of the nature of private property. I have now to see whether on the evidence that is now produced for Defendants, that presumption stands or not. That presumption has, in my opinion, been strongly rebutted by the evidence now placed by the Defendants before me.”

¹: The Bombay Chronicle, dated 2nd March 1928.

While examining the evidence, the sub-judge relies on copies of extracts from Revenue Records and certain other documents like applications from several people to the Municipality for special use of the water of the tank and definitely expresses the view. "All these papers strongly go to prove that the Chawdar Tank in suit is Government Property vesting in the Municipality and not private property of particular individuals as alleged by the Plaintiffs."

Conclusive Evidence

Continuing the judge says : "The presumption that the tank in suit is Municipal property is further strengthened by the fact that in the embankment of the tank, there are slabs of stones in two places bearing inscriptions engraved on them. On the application of Defendant's pleader, a Commissioner was appointed to visit the place and in the presence of the Court and the pleaders for both sides, to make facsimile of these inscriptions. This was done in the presence of the Court and Messrs Joshi and Sathe for Plaintiffs and Mr. Vaidya for the Defendants. Slab marked serial No. 2 bears a clear inscription of the words Municipality Mahad 1899 engraved in Marathi. On slab No. 1 some words are clearly visible while the others appeared to have been tampered with by some one and this tampering appeared to be quite fresh.

Plaintiff's Slender Case

As against all this evidence, plaintiffs rely upon the deed of partition (Ex. 45) of the Dharap family. In the face of all the evidence above referred to the mere fact that years ago, some members of the Dharap family effected, as between themselves a partition of the embankment in front of their house, does not signify much nor does the notice Ex. 44 given by the Municipality to one Diwakar Joshi to repair the embankments built by him in front of his house, as they were in a dilapidated condition and were rendering the water of the tank insanitary, signify much. It in no way constitutes an admission of Plaintiffs' right to the tank itself.

“No Special Preserve”

Whatever may be the final decision of the suit on its merits, I am, for the present, thoroughly satisfied, that the *Chawdar Tank* in suit is Government Municipal property and not the private property of particular individuals as alleged by Plaintiffs. The question then is whether plaintiffs have a right to exclude Defendants from enjoyment thereof. The answer is obviously “No”. In the case of such property there cannot be any reservation in favour of a particular class of community, and the Defendants have as much a right to its enjoyment as the Plaintiffs have. No question of irreparable injury therefore arises. In this case the property being Municipal property and the Defendant having as much a right to use it as the Plaintiffs, their exercise of that right cannot be said to cause any injury to Plaintiffs.

Lame Arguments of Plaintiffs’ Counsel

It is argued for the Plaintiffs by their learned pleader Mr. Virkar that on their own admission, the Defendants have not up to now enjoyed the use of the tank in suit. But, when once it is shown that the property is not private but public and open to all members of the public, the mere non-user of the tank by the Defendants during howsoever long a term of years cannot in any way derogate from their title. I am satisfied from the evidence produced before me that the tank in suit is not the private property of the Plaintiffs, but that it is Government Municipal property, and the Defendants have as much a right to its enjoyment as the Plaintiffs have and that any interference with the exercise of such right would be wholly illegal.

I cannot conclude this order without expressing my regret at the inconvenience and hardship caused to the Defendants by the injunction granted by me, temporary though it was, and at having been instrumental in heaping one more wrong upon a community already labouring under the most cruel and unjust social wrongs. I dissolve the injunction issued by me.”¹

¹: The Bombay Chronicle, dated 3rd March 1928.

Following is the Police Report of the meeting held at Bombay after dissolution of injunction—

“Untouchables and Satyagrah at Mahad

A public meeting of the Depressed Classes was held at Damodar Thakersey Hall on February 26th when G. N. Sahasrabudhe presided over an audience about 500 people.

Dr. B. R. Ambedkar, who was the principal speaker, said that as the Sub-Judge of the Mahad Court had dissolved the interim injunction against him and the *Satyagraha* Party, he would leave the question of resuming *Satyagraha* to the discretion of the *Satyagraha* Committee of Bombay.

Views expressed by “Indian National Herald” after cancellation of injunction—

“COMMON HUMAN RIGHTS

The Sub-Judge of Mahad having dissolved the temporary injunction issued by him against Dr. Ambedkar and other leaders of the Depressed Classes, the latter, it is understood, propose to assert their civic right to draw water from the public tank at Mahad. When in March last members of the Depressed Classes, who had previously met in a conference at the place, attempted to approach the tank they were roughly handled by the “higher” Caste Hindus, a few Chamars sustaining severe injuries. The leaders of these “higher” Caste Hindus then sought an injunction under section 144 Cr. P. C. from the District Collector, on the ground that the attempt of the “Untouchables” to take water from the tank, in contravention of the existing customary ban on them would spell danger to public peace.

The Collector, refused to take any action. They then applied to the Sub-Judge and succeeded in obtaining from him a temporary injunction against the leaders of the “Untouchables” and consequently the contemplated *Satyagraha* and march to the tank in a body with a view to draw water from it in defiance of the “Higher” Castes, had to be abandoned. Now, however the Sub-Judge has dissolved the injunction, declaring himself satisfied from the evidence that “any interference with the exercise of such

right would be wholly illegal.” That the so-called Higher Castes have absolutely no legal right to prevent any member of the public, from drawing water from a tank which is not private property and which they themselves must be fully aware is a Municipal Tank, would be admitted by any man; who is not blinded by caste prejudices. If the local Municipal authorities had any doubts in the matter the same has been set at rest by the resolution of the Bombay Legislative Council passed in September 1926, declaring that all Municipal Tanks, wells and *Dharmashalas* should be thrown open to all classes of public without any distinction. It is inconceivable that any section of the community, because of their own notions of personal “superiority” in point of caste, should be entitled to prevent any other section from benefiting from the amenities provided from public funds. Such a notion deserves to be knocked on the head, not only in the interests of the oppressed and suppressed classes, but also, and much more, in the interests of the so-called superior classes themselves. Such treatment of fellow beings besides being wholly iniquitous and unjustifiable is bound to have very undesirable consequences for the “Higher” Castes, for sooner or later the oppressed classes must come by the rights, human, civic and political, so long unjustly denied to them and then their exacerbated feelings might lead them to turn the tables on their former oppressors.

The alienation of the sympathy of a section of the Depressed Classes towards the national movement ought also to be a sufficient warning against the perpetuation of the present deplorable conditions. Let us hope that when in a few days Dr. Ambedkar and his fellow castemen proceed to Mahad to assert their right to draw water from the public tank there, not only will there be no opposition, but a cordial welcome will await them from the “Caste” Hindus. Such a consummation would go a long way to heal the wounds cruelly inflicted on their fellowmen.”¹

¹: The Indian National Herald, dated 6th March 1928.

Mahad Satyagraha changed the social attitudes of some Caste Hindus. Following is one of the examples—

**“Do away with Castes
All Caste Dinner in Bombay**

An all caste dinner was held under the auspices of the Samaj-Samata-Sangh (Social-Equality-League) on the 5th instant in the Damodar Thakersey Hall, Parel.

About 150 persons of different castes including 50 so-called Untouchables attended the dinner. Mr. D. V. Naik, Editor of the *Brahman-Brahmanetar*, and vice-president of the League, welcomed the guests saying that such dinners were organised by the League to be away with caste barriers that separated and disintegrated the Indian nation in general and Hindu society in particular. It was only through free intercourse and inter dining, he added, that the evils of the caste system would be destroyed, and that a new society based on equal status would be developed. They had all gathered there, he proceeded, not on account of inevitable necessity (*Apad-Dharma*), but with a definite purpose and full knowledge and determination to break the intolerable shackles of the rigid system which disapproved and prohibited such sanctions of love and brotherhood.

The League under the able guidance of its learned President Dr. Ambedkar, he assured, the guests, would always welcome and help those who would, with unique courage in both hands, come forward to free themselves and the nation from the present inhuman caste-ridden society.

Mr. A. B. Kolhatkar, the Editor of the *Sandesh* eulogised the work of the League, pointing out the significance of such functions. He said the Hindu society was like a clock of sand where the Brahmins till then had the upper hand but now the time had come when they should ungrudgingly make room for the other castes and especially for the so-called Untouchables. He further believed that if the present abuses of all sorts-political, social and religious were to be eradicated, that could only be done through the instrumentality of a new Shivaji, to be born among the so-called Untouchables.

Mr. V. B. Karnik, the Secretary of the Bombay Maharashtra Youth Mandal drew attention to a resolution passed by it, aiming at the abolition of the iniquitous system of castes and the differences made on grounds of religion and sect by organising inter-caste dinners and encouraging inter-caste marriages and promised that the Mandal would always give its whole-hearted support to the League, which was already in the field in such national work.

Mr. M. R. Menon, said that he had come there to wish Godspeed to Dr. Ambedkar in the righteous work he had undertaken of procuring for the the so-called Untouchables the most elementary human right of drinking water from a public tank at Mahad.”¹

“In spite of Government Resolution, Untouchables were not allowed to draw water in 1932, the Bombay Government instituted a Committee consisting of Symington, I. C. S., and Zakeria Maniyar, to inquire into the condition of the Depressed Classes in the Nasik District. One of the chapters of the report revealed that in that District there were as many as eleven hundred District Local Board wells from which the Untouchables were not allowed to draw water in spite of the Government Resolution of 1923.”²

In the mean time a legal struggle in between Caste Hindus and Depressed Classes was going on in various Courts. Following is the abstract of these incidents.

“Appeal Heard in Thana District Court

Thana, March 20.

Mr. B. N. Sanjana, District Judge, Thana, heard to-day an appeal filed by Pandurang Waman dharap and others of Mahad against the judgement of Mr. Vaidya, Subordinate Judge, Mahad, dissolving an interim injunction granted by him previously against the Mahad Untouchables for bidding them from using the *Chawdar Tank*.

¹ : The Indian National Herald, dated 15th March 1928.

² : Keer, P. 197.

The District Judge passed orders granting a interim injunction restraining the respondents, from using the declaratory suit filed by the touchables in the Mahad Civil Court.”¹

“Kolaba, March 3.—The Bombay Chronicle of March 2, published the following :—“A meeting was held on Sunday, February 26, in Bombay, attended by about 2,000 people. It was resolved to re-launch the *Satyagraha* at Mahad. The *Satyagraha* Committee is meeting shortly and the exact date will be announced shortly.”²

“*Satyagraha* at Mahad : Re-starting of.....

Vide para 309. Kolaba, March 17.—There has been several reports lately that the Mahad *Satyagraha* is to be re-launched on March 22; but this has been personally denied by Dr. Ambedkar who has promised to give a fortnight notice before re-launching it.”³

“488. Vide para 52, Kolaba, March 24.—In the appeal against the order of the Sub-Judge, Mahad, regarding the Chawdar Tank, the District Court, Thana, has passed an order prohibiting an Untouchables from entering the Tank, pending the final decision of the suit regarding the Tank.”⁴

The Sub-Judge of Mahad Hon. V. R. Saraf gave judgement in favour of the respondents Dr. B. R. Ambedkar and others on 8th June 1931, since the appellants caste Hindus could not prove their ownership of the tank. Thus Chawdar Tank was declared as public and open to the Untouchables also.

The Caste Hindu Appellants preferred an appeal against the Judgement in the District Court of Thana. The Second Assistant Judge Hon. S. M. Kokani decided the case in favour of the Respondents Dr. B. R. Ambedkar and others on 30th January 1933.

¹ : The Indian National Herald, dated 22nd March 1928.

² : Bombay Secret Abstract dated 17th March 1928, para, 309.

³ : Bombay Secret Abstract dated 31st March 1928, para, 428.

⁴ : Bombay Secret Abstract dated 7th April 1928.

Thereafter the Caste Hindu Appellants again preferred an appeal in the High Court, Bombay. This case lingered for four years. Lastly Justice Broomfield and Justice Wadia rejected Caste Hindus' appeal on 17th March 1937 since they could not prove their ownership of land of Chawdar Tank.

The Judgement of the High Court, Bombay reads as under :

“APPEAL No. 462 OF 1933 FROM APPELLATE
DECREE

Narhari Damdoar Vaidya; and the others

(Original Plaintiffs Nos. 2 to 6).....Appellants.

versus

Dr. Bhimrao Ramji Ambedkar, Member of Joint Parliamentary Committee, London; and others.

(Original Defendants).....

Respondents.

Second Appeal against the decision of S. M. Kaikini, Esquire, Second Assistant Judge at Thana in Appeal No. 32 of 1931.

Mr. V. B. Virkar for the Appellants,

Counsel Mr. S. V. Gupte, with Mr. B. G. Modak for Respondent No. 1.

17th March 1937

Coram :—Broomfield N. J. and Wadia J. J.

Oral Judgement Per Broomfield N. J.:—

The appellants, on behalf of the caste Hindus of the town of Mahad, sued the respondents, who represented the so-called ‘Untouchables’ for a declaration that the Chawdar Tank near the town belongs to them and that they alone have a right to use It and the respondents are not entitled to use it, and for an injunction against the respondents not to use it. The claim to ownership is not now persisted in and it is conceded that, as found by the trial court, the tank belonged to Government under the provisions of Section 37 of the Land Revenue Code and has now vested in the Municipality of Mahad under Section 50 of the District

Municipalities Act. It is also conceded now that the caste Hindus are not entitled to exclusive user of the tank as against all the world, since Mohamedans may and do use it. It is contended nevertheless that the appellants have the right to use it themselves and to exclude the 'Untouchables' from it, and this right is said to be based on immemorial custom.

The Trial Judge found that the plaintiffs have proved a longstanding custom (he does not describe it as immemorial) of using the tank water to the exclusion of the 'Untouchables.' He held however that the custom conferred no legal right upon the plaintiffs because 'mere user of a public tank by one class and non-user by another would not clothe the class making the user with any legal rights or rights of ownership.' On appeal, the Assistant Judge confirmed the finding that the caste Hindus have not proved that they have any legal right to exclude the 'Untouchables.' He has relied to some extent on a judgement of Sir Sadashiv Ayar V. Vaithilinga, a case not reported apparently in the authorised reports but to be found in 1913 Mad. W. N. 247 and 18 Indian cases 979; but his main reason seems to be that he held that the custom is not shown to be immemorial.

The Chawdar Tank is a small lake or large pool; between four and five acres in extent, on the outskirts of the town. It is surrounded on all sides by municipal roads beyond which are houses occupied by caste Hindus (and a very few Mohamedans), and the owners of these houses also own in many cases strips of land on the edge of the tank, *ghats* or flights of steps to get to the water and the masonry embankments along the sides. There are no houses of 'Untouchables' anywhere near. It is not known how old the tank is, except that it is admittedly not less than 250 years old. There is no evidence as to its origin. It is not even clear that it is artificial. The Trial Judge took the view that it was 'a natural excavation in the bed of the earth, of course repaired and remodelled by human agency.' If this is so—and the point was not disputed in the argument before us—it is probably many centuries old. The water supply comes from the monsoon and a few natural springs. The population of the town Mahad is between seven and eight thousand, of whom less than 400 are 'Untouchables.' The Municipality was established in 1865, but

there is no evidence available, at any date on the record of this case, as to the early history of the town or as to the time when the side was first inhabited.

The Plaintiffs have examined a number of witnesses, many of them old inhabitants, whose evidence may be said to have established that within the period of living memory the tanks has been used exclusively by the Caste Hindus (and a few Mohamedans) and has never been used by the 'Untouchables'. It is in fact admitted that the latter never used it, before the year 1927, when a campaign against the doctrines of 'Untouchability' was carried out by defendant No. 1, and some of the 'Untouchables' went and drank water as a protest. They were assaulted and beaten by the caste Hindus and there were criminal prosecutions which led to the present suit. As there is no record of any attempt having been made by the 'Untouchables' to use the tank before that, there is no evidence of any positive acts of exclusion. What is provided is user by one party and absence of user by the other. This was due, no doubt to any accidental causes but, to the mutual acceptance of the doctrine of 'Untouchability' which until recent years was not openly challenged.

The learned Assistant Judge comments on the fact that there is no evidence of the exclusion of the 'Untouchables' in pre-British times, nothing to show that the exclusion of exclusive user was in force in the days of the Maratha rule or the Musalman rule. It is of course not always necessary to produce evidence going back beyond the memory of living persons. On proof of enjoyment for a period, even less than that, the Courts have frequently felt justified in holding, in the absence of evidence, to the contrary that a custom has existed from time immemorial. Nor, of course, is it necessary in case of this kind to have evidence of positive acts of exclusion of one party by the other. There could be no such evidence as long as the enjoyment of the caste Hindus was not challenged, and it would not be likely to be challenged as long as the doctrine of 'Untouchability' prevailed and was accepted. But a custom proved to have existed during the period of living memory can only be presumed to have existed from before the period of legal memory in case where conditions may be assumed to have been permanent and stable so that it is reasonable to infer

that what has happened during the period covered by the evidence has also happened from time immemorial. This is where the plaintiffs' case in our opinion breaks down. As long as conditions were at all similar, as long as the houses of the Caste Hindus have surrounded the tank, (which is not necessarily very long as the tank is on the outskirts of the town and the land around it would not likely be occupied until after considerable expansion of the original settlement) it may be safely presumed that the practice was the same as at present. It would not be safe to presume, however, that conditions have been similar for a period long enough to establish the alleged custom. The Konkan has had a chequered history, even in comparatively modern times, and to suppose that the Caste Hindus have been in a position to exercise exclusive control over this large natural reservoir situated as it is, from time immemorial, would be contrary to reasonable probability.

In this connection some of the observation of Sir Sadashiv Ayar in *Mariappa V. Vaithilinga* are very instructive. He cites a saying of Manu; 'Waters are pure as long as a cow goes to quench her thirst in and they have a good scent, colour and taste,' and he points out that the *Shastric* writings 'Make a distinction between rivers, tanks and other receptacle which are more easily contaminated and where purification by time, atmospheric conditions and movement of the water is much more difficult.' The learned Judge suggests that the dictates of the Hindu religion would not require any elaborate precautions against the pollution of water in a large open tank, and he was dealing with a tank in a village site considerably smaller than the Chawdar Tank at Mahad. The doctrine of 'Untouchability' therefore does not appear to go far enough to lend very much support to the appellants' case and it is doubtful whether any attempt would be made to secure exclusive user of the water until such time as the tank came to be surrounded by the houses of the caste Hindus.

This is the only case to which our attention has been drawn dealing with a claim to exclude 'Untouchables' from the use of a watering-place of this description. The temple-entry cases, e. g. *Anandrav N. Shankar*, (1883) I. L. R., 7 Bom. 323, and *Sankaralinga V. Rajeswara*, (1908) I. L. R., 31 Mad. 236, P. C,

are not really on all fours. In such case long practice acquiesced in by the other castes and communities may naturally give rise to a presumption of dedication to the exclusive use of the higher castes, and may throw upon the 'Untouchables' the burden of proving that they are among the people for whose worship a particular temple exists. No such presumption of a lawful origin of the custom can be said to arise here.

We therefore agree with the learned Assistant Judge that the appellants have not established the immemorial custom which they allege. Had they succeeded on this point it might have been necessary to consider whether the custom were unreasonable or contrary to public policy (though strictly speaking, it was not pleaded in the lower courts). It would certainly have been necessary to consider the legal effect of the vesting of the Chawdar Tank in the Municipality, and the question whether in any case the appellants could be granted any relief in this suit in which the legal owner is not a party. But as it is not necessary to decide these questions in the view we take of the case, and as they have not been very fully or effectively argued, we prefer to express no opinion.

Appeal dismissed with costs.

The seal of the
High Court at
Bombay.

By order of the Court
Sd/- R. S. Bavdekar,
Registrar
Sd/-

High Court Appellate
Side certified copy
Bombay.

For Deputy Registrar”
the 28th day of June 1960.¹

The words of Dr. B. R. Ambedkar that “Lost rights are never regained by begging, and by appeals to the conscience of the usurpers, but by relentless struggle” have been proved by Mahad *Satyagraha*.—Editors.

••

¹: Khairmode, Vol. 3, Pp. 258-263.