
(2022) 10 UK CK 0023
In the Uttarakhand High Court
Case No : Writ Petition (PIL) No. 136 Of 2022

Islam	Vs	APPELLANT
State Of Uttarakhand And Others		RESPONDENT

Date of Decision : 14-10-2022

Acts Referred:

Citation : (2022) 10 UK CK 0023

Hon'ble Judges : Vipin Sanghi, CJ; Manoj Kumar Tiwari, J

Bench : Division Bench

Advocate : T.A. Khan, Vinay Bhatt, Mohd. Shafy, Mamta Bisht, K.K. Harbola, Ashish Joshi, Rahul Consul, Manish Lohani

Final Decision : Dismissed

Judgement

Vipin Sanghi, CJ

1. The petitioner has preferred this petition, which is the second petition, to seek a direction to the respondents not to construct any road in the land of Qabristan in the area of 1.5 hectare of Khasra No. 546 in Village Kargi Grant, Tehsil Sadar, District Dehradun, which is bounded as under:

"East- Abadi, West-Pushta (retaining wall) and thereafter Nala (Bindal River), North-land of Government, South-Nala (Nala of Abadi)."

2. The case of the petitioner is that vide Government Order dated 02.06.2016, the Government conveyed its decision to make allotment of 1.5 Hectare of land for the purpose of Graveyard. Further case of the petitioner is that the Government, itself, has identified the land admeasuring 1. 5 Hectare for the purpose of establishing the Graveyard, has spent money, and has raised construction of the boundary-wall on the said land. In this regard, the petitioner has placed reliance on several documents filed with the petition.

3. As noticed hereinabove, the petitioner had earlier preferred Writ Petition (PIL) No. 29 of 2022 seeking the same relief. That petition was dismissed as

withdrawn with liberty to file a fresh petition with complete particulars disclosing the exact area of the land allotted for the Graveyard and its exact location on 27.09.2022.

4. The Government Order dated 02.06.2016, relied upon by the petitioner for the purpose of claiming the allotment of land admeasuring 1.5 Hectare for the purpose of Graveyard is completely silent about the exact parcel of the land allotted for the purpose of the Graveyard. The said Communication is only an in-principle approval or a decision 2 for making such an allotment. It also talks about allotment of land for other purposes. However, there is nothing on record to show that the parcel of land, which the petitioner now claims to be the allotted land for the purpose of Graveyard, was the actual parcel of land, which was decided by the Government to be allotted for the said purpose, or actually allotted for the said purpose.

5. It is also pertinent to note that there is no person or authority in whose favour the allotment is claimed to have been made.

6. The submission of Mr. Khan, learned Senior Counsel for the petitioner, is that by the same Government Order, a piece of land was allotted for the purpose of Colony of drivers, who are constructing their colony, and it is they who are creating a passage over the land of the Graveyard. No other person has approached this Court claiming that the land has been allotted for the purpose of developing a residential colony of drivers. The facts of relating to allotment of a particular piece of land in their favour are not before us. Hence, it would not be appropriate for us to make any comment in that regard.

7. In the light of the aforesaid, we are not inclined to entertain the present writ petition. The same is, accordingly, dismissed with liberty to the petitioner to approach the Civil Court to establish the factum of allotment of the particular parcel of land for setting up the Graveyard, and for claiming his rights.