

(2013) 08 P&H CK 0468
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 15159 of 2012

Satpal Yadav and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 08-08-2013

Acts Referred:

Citation : (2013) 08 P&H CK 0468

Hon'ble Judges : Satish Kumar Mittal, J; Mahavir S. Chauhan, J

Bench : Division Bench

Advocate : Indu Bala, for the Appellant; Gitish Bhardwaj, Advocate for Respondent Nos. 2 and 3, for the Respondent

Final Decision : Dismissed

Judgement

Mahavir S. Chauhan, J.—Petitioners, who are residents of village Wazirabad, Tehsil and District Gurgaon, have filed the instant writ petition for issuance of writ of mandamus directing respondent Nos. 2 to 4 to consider representation dated 24.04.2012 (Annexure P-19) and accept the prayer of residents of village Wazirabad, Tehsil and District Gurgaon, for shifting the cremation ground to the vacant barren land, which is far away from the village abadi. The petition proceeds on the premises that respondent No. 2 had acquired land of residents of village Wazirabad in the year 2006, which adjoins the village abadi, while the land comprised in Khasra Nos. 472/1 (3-0-0), 474 (1-16-0) and 475 (1-10-0) measuring 6 Bighas 6 Biswas is barren land and is about 1 kilometer away from village abadi. Residents of village Wazirabad made a detailed representation dated 24.04.2012 (Annexure P-19) supported by a resolution dated 27.03.2012 (Annexure P-20) for shifting of cremation ground to the afore-sated land but the respondents have not considered the representation and have, instead, decided to shift the cremation ground to the residential abadi of Saraswati Kunj.

2. In the written statement filed by respondent Nos. 2 and 3, it has been stated that the site suggested by the petitioners is earmarked for amusement park and has already been allotted to International Recreation and Amusement Limited

and its possession has been delivered on 03.03.2011. It is also stated by respondent Nos. 2 and 3 that the land measuring 10.13 Acres located 300 meters away from the abadi has been earmarked for cremation ground and for its development work order worth Rs. 666.13 Lacs has also been granted vide Memo No. 1322 dated 19.09.2010. This piece of land, according to the plea of the respondents, is acceptable to the residents of the area and construction of boundary wall and road around the site is in progress.

3. We have heard learned counsel for the parties and have also perused the record.

4. One site that is land comprised in Khasra Nos. 472/1, 474 and 475 measuring 6 Bighas 6 Biswas has been suggested by the petitioners and the other i.e. near Exhibition Park-cum-Farmers Market in Sector 52-A, Gurgaon, has been earmarked by the respondents for cremation ground. The site suggested by the petitioners happens to be a site earmarked for Amusement park and it stands already allotted to International Recreation and Amusement Limited. Even possession of the same has also been delivered vide letter of possession dated 03.03.2011. This site was earmarked for amusement park and the zoning plan of the amusement park was approved by the Chief Administrator, HUDA, as far back as on 28.02.2009. International Recreation and Amusement Limited is not before us and, as such, no order adverse to its interest can be passed in its absence. Even otherwise, the zoning plan cannot be altered, more so when third party rights in respect of the site have been created long ago.

5. As regards the site earmarked for cremation ground by the respondents, on perusal of site plan (Annexure R-1), it is found that this site is 300 meters away from village abadi, land measuring 10.13 Acres has been earmarked for the purpose, it has access from all the sides and is bounded by 50 meters and 100 meters wide forest belt. As stated by respondent Nos. 2 and 3, a work order for development of the cremation ground worth Rs. 666.13 Lacs has already been awarded on 19.09.2010 and work of construction of boundary wall and roads etc. is in progress. This site is found to be suitable for cremation ground. In view of the above facts and circumstances of the case, we find no merit in this petition. The writ petition, therefore, fails and is dismissed. However, in the facts and circumstances of the case, parties are left to bear their own costs.