

CWP no. 4477 of 2015 (O&M) 1

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP no. 4477 of 2015 (O&M)
Date of Decision : 30.11.2016**

Satpal Singh and others

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE DR. SHEKHER DHAWAN**

Present : Ms. Savnita Rana, Advocate for the petitioners

Ms. Kirti Singh, DAG, Haryana

Mr. Ashok Singla, Advocate for respondent no.3

MAHESH GROVER, J.

This petition has been filed by the petitioners praying for quashing of resolution no. 7 dated 24.9.2013 passed by the Municipal Committee, Bawani Khera, District Bhiwani to develop a park.

The grievance of the petitioners is that the land intended for a pond (johar) is being mis-utilized for creation of a park.

Reply of the respondents are on record where they have refuted this fact and clarified that there are in fact number of ponds in the area and some portion adjoining to one of the ponds is intended to be used as a park for the benefits of the residents.

During the course of proceedings, we sought a report from the Conservator of Forests, North Circle, Haryana, Panchkula pursuant to which

a status report has been submitted and some suggestions have also been made. The relevant portion of the report and the suggestions made are extracted herebelow:-

“1. The geographical position of the
Dudhwan Johar was found out to be as follows:-

GPS Coordinates : 28° 57'12"N
075° 01'41” E
Elevation 200 amsl (above mean sea
level)

2. There are found major ponds in
Bawani Khera:

- (a) Dundhwan Johar
- (b) Badaa Johar near Railway Line
- (c) Tirath Johar on Bypass
(Bhawani Khera)
- (d) Kamaal Johar near Girls
College, Bhawani Khera

All the Johars mentioned above are
situated about 1-2 kms, from each other with no
interconnections and having water source from
irrigation canals and rain water.

3. The park in question is proposed
to be constructed adjoining Dundhwan Johar and
Somwarpuri Kutiya. As per the revenue records,
the park has been constructed on a dried up pond.

4. Dundhwan Pond surrounded by

Village South and East side, by Somwarपुरi Kutiya towards west and by proposed park on North side. The proposed park is surrounded by Jamalpur Road and Godowns on North side and by road leading to Bawani Khera Village on East side (See Fig-1)

5. The source of water for Dundhwan Pond is waste water from village, rain water and a pipeline to the nearby canal without special outlet. The probable rain water catchment area of the pond is large chunk of community land laying vacant adjacent (West Side) to the proposed park. Rain water ravines can still be seen on the spot. The construction of boundary wall of proposed park have destroyed all connections between Dundhwan Johar and the Community land, thereby effecting the catchment area of the said johar.

6. It was also observed that there is a probability that the said park is being constructed to prevent encroachment on Community land. But beyond doubt, the construction of Park is affecting the catchment area of the Pond. The point is that the park can still be constructed without affecting the catchment area. The measures that can be taken to counter the effect are:-

(a) The slope of the park be made such that the rainfall water automatically flows

towards the pond.

(b) Open rainwater channels be constructed all outside the boundary wall leading to Dundhwan Johar in such a manner that all rain water from the adjoining Community land falls in these channels and ultimately to Dundhwan Johar.

In this way, the proposed park can be constructed without effecting the catchment area of the Dundhwan Pond.”

Evidently some area alongside the pond is intended to be developed into a park. We are of the opinion that development of a park without affecting the pond itself would simply be complimentary to it and more useful to the residents and thus objection of the petitioner seem to be stemming from some extraneous considerations. Therefore, writ petition is held to be without any merit but while disposing of the writ petition we make it clear that the adjoining area to the pond would be developed into park and suggestions of the Conservator of Forests, North Circle, Haryana, Panchkula be also included and adhered to.

(Mahesh Grover)
Judge

(Shekher Dhawan)
Judge

30.11.2016

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No