

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

CWP No.26289 of 2013(O&M)

Date of decision : 18.04.2017

Gram Panchayt Bishanpura

..... Petitioner

versus

**Director, Rural Development and
Panchayat and another**

..... Respondents

CORAM : HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.J.S. Bhandohal, Advocate
for the petitioner.

Mr.Yatinder Sharma, Addl AG, Punjab.

Mr.Rahul Sharma, Advocate
for respondent No.2.

AMIT RAWAL, J.

Challenge in this petition is to the order dated 15.10.2013 (Annexure P-1) rendered by Director, Rural Development and Panchayats, Punjab-respondent No.1 whereby memo dated 12.09.2013(Annexure P-3) has been cancelled.

Mr.Bhandohal, learned counsel appearing for the petitioner submits that that the Gram Panchayat passed a resolution dated 12.09.2013 seeking police assistance for shifting of the shed of cremation ground in view of the order dated 31.12.2009 (Annexure P-4) of the Director, Department of Rural Development and Panchayat, Punjab, Mohali in proceedings initiated under Section 199 of the Punjab Panchayat Raj Act, 1994 in a matter titled as Amarjit Singh and others v. Gram Panchayat and

others whereby it has been held that there is no cremation ground on Khasra No. 60 whereas the cremation ground is on khasra No. 272. In fact Khasra No. 60 is Gair Mumkin though in a civil suit filed in this respect titled as Mehar Singh v. Gram Panchayat and another seeking injunction and the matter was compromised and a statement was recorded that the shed from khasra no. 60 should be shifted to khasra no. 272. All these factors have not been taken into consideration by the Director and, therefore, order is not sustainable in the eyes of law. In fact, the cremation ground is in khasra No. 272 since times immemorial and one Shamsheer Singh constructed his house near the fields away from the village. It is on account of his manipulation that the Gram Panchayat wants to shift the cremation ground into Khasra No. 60 away from his house. The order under challenge is also not sustainable on the premise that order dated 31.12.2009 has attained finality.

Per contra, Mr. Rahul Sharma, learned counsel appearing on behalf of respondent No.2 and Mr. Yatinder Sharma, learned Addl AG submit that the order of the Collector is perfectly legal and valid and does not call for interference. Before passing the order the Director had appointed a team consisting of revenue officer for demarcation of the land in dispute and on demarcation and as per revenue record found that the cremation ground was in khasra no. 60 and not in khasra no. 272. The order Annexure P-4 is bereft of documentary evidence on record and would not be taken as a judgment in rem and would be taken as a judgment per incuriam. The petitioner has not been able to rebut the demarcation report as well as the revenue record and prays for dismissal of the writ petition.

I have heard learned counsel for the parties and have gone through the record very carefully with the assistance of learned counsel. The

order of the Director in setting aside the resolution is perfectly legal and justified and before taking an action thereon had undertaken a task of site inspection much less examined the revenue record i.e. jamabandi for the year 1973-74, 2003 to 2006 and in all the aforementioned documents the cremation ground is in khasra no. 60. However, according to jamabandi for the year 1972 the character of the land is maintained as Gair mumkin. Thus, for all intents and purposes it has been established that actually the cremation ground is in khasra no. 60. I am in agreement with the reasoning assigned by the Director and is based upon preponderance and appreciation of the documentary evidence muchless the demarcation report. Thus, cannot be said to be faulted and needs no interference. Resultantly finding no merit the writ petition is dismissed.

(AMIT RAWAL)
JUDGE

April 18, 2017
sunita

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No