

117 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-11338-2018

Date of decision: 07.05.2018

Girwar Singh and others

.... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.S.S.Khurana, Advocate
for the petitioners.

Avneesh Jhingan, J.

The petitioners have filed the present writ petition for setting aside resolution dated 14.10.2016 whereby resolution was passed to construct Rao Tula Ram Park at Ward No.12, Bawal.

The petitioners are the residents of Mohalla Kannungo, Bawal, Tehsil Bawal, District Rewari.

The issued raised in the petition is that land reserved for *johar* cannot be utilised for any other purpose. Reliance is placed upon the decision of Division Bench of this Court in **Raj Pal and another vs. State of Haryana in CWP No.3221 of 2011 dated 22.11.2012.**

This issue needs no adjudication in the present case at this stage.

Learned counsel for the petitioners relies upon a resolution dated 02.08.2016 passed by Municipal Committee, Bawal attached at Annexure P2. It was resolved that *johars* are present at various places in Bawal such as Mohalla Jatwara, near Sahid Bhagat Singh Park, Dhobi Ghat, Pranpura etc. and it was resolved that *johars* are filled with soil after getting the measurement of johars, the excavation would be done.

The grievance of the petitioners is against the resolution dated 14.10.2016 (Annexure P3). From the perusal of the resolution, it is evident that it has only been resolved that a park by name of Rao Tula Ram Park be constructed on Municipal Committee land at Ward No.12. The resolution was passed unanimously. The relevant portion is quoted as under :-

<i>Sr. No.</i>	<i>Business transacted as per agenda or an a requisition</i>	<i>Advice if given by the Advisor</i>	<i>Resolution of Committee</i>
6	Regarding development work at various places in the Bawal Area Xxx (iii) This proposal has been put with the permission of the President to construct Rao Tula Ram Park on the land of M.C. Bawal at Ward No.12, is presented for consideration		Approved with unanimous consent. As per rules the administrative consent be received from the Deputy Commissioner.

From the resolution, it is not evident that any *johar* land is being utilized for construction of park. No evidence or document has been attached with the writ petition to show that by this resolution *johar* land is being converted into park. The writ petition has filed merely on apprehension. The disputed question of fact cannot be gone into writ petition filed under Article 226 of the Constitution of India. It would not be out of place to mention that petitioners made a representation dated 15.03.2018 to the respondent. Needless to add that in case the respondents intend to use a *johar* land for construction of park, in that event, the representation of the petitioners would be considered and decided in accordance with law and decision be communicated to the petitioners.

The writ petition is disposed of.

07.05.2018
anju

(AVNEESH JHINGAN)
JUDGE

- 1. Whether the order is speaking/reasoned: Yes/No
- 2. Whether the order is reportable : Yes/No