

CR-1079-2020

Date of decision: 14.07.2021

Ramesh Kumar and another

.....Petitioners

versus

Gram Panchayat, Bakarpur

.....Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**Present:** Mr. Namit Khurana, Advocate
for the petitioners.Mr. Diwan S. Adlakha, Advocate
for respondent No.1.Mr. Gaurav Jindal, Addl.A.G., Haryana
for respondent No.2-State.**FATEH DEEP SINGH, J.**

Due to outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

The petitioners happened to be residents of village Bakarpur, Tehsil Jagadhari, District Yamuna Nagar, and have through this revision petition under Article 227 of the Constitution of India challenged an order dated 14.12.2018 (Annexure P-5) passed by the learned Civil Judge (Junior Division), Jagadhari, dismissing the application of the applicant/plaintiffs and which finding was upheld by

orders dated 30.01.2020 (Annexure P-7) by the Court of learned Additional District Judge, Yamuna Nagar.

Heard counsel for the parties and perused the records.

The brief claim is that in the area of Gram Sabha, Village Bakarpur near the Harijan Basti, a *Johar* exist on *Khasra* No.260 and which is primarily used for accumulation of rain water and caters to the water needs of the animals of the village, besides this, it is claimed that the discharge of other water flows into this *Johar*. The grouse of the petitioners are that the respondents, for political reasons, have planned to raise an Ambedkar Bhawan over this Shamlat Deh and this would cause irreparable loss and injury.

Appreciating the submissions, though, it is well illustrated on the records that the property in dispute located in *Khasra* No. 260 is a *Johar*, which is catering to common purposes of the village. As is there, one of the *Johars* in the village, has already been filled up and, thus, is the lone “water body” in the village. The revisionist/plaintiffs, admittedly, are residents of the village and so the property, in dispute, being a *Johar*, is reserved for benefit of village community and common purposes of the village. Therefore, to the mind of this Court, every inhabitant of the village is an interested person in such a property, and, therefore, puts at rest the claim of the respondents' side that the Panchayat is the absolute owner and, therefore, entitled to put to use the property as per their wishes and desires. More so, the very opening lines of Section 5 of the Punjab Village Common

Land (Regulation) Act, 1961 as applicable to the State of Haryana ensures that all lands that vests or deem to be vesting in the Panchayat, shall be utilized for the benefit of the inhabitants of the village concerned. No doubt, Gram Panchayat is the representative of the inhabitants of the village and can put to use such land as they deem appropriate under the law but at the same time has to be sensitive to the requirements of the Mother Earth. Repeatedly, the Apex Court had passed orders calling upon the authorities to ensure that Government needs to restrain persons/institutions from doing acts which may be detriment to the laws of nature. In this era of Global Warming, a bugle needs to be sounded that such like water bodies needs to be preserved, so that the very balance of nature is not disturbed. Being a *Johar*, a water body, would certainly help in maintaining the environmental balance, besides bringing solace to the animals, birds *et cetera* to the living beings, and, therefore, the Court needs to be sensitive to such a requirement and strike a balance between the powers of the Panchayat and the requirements of nature. As the petitioners are inhabitants of the village and likely to suffer injury by such an act of the respondents and without going into the very claim and counter-claim of the two sides, which apparently, appears to be more of sectarian egoism and political reasons, this Court deems it imperative that rather than constructing a Bhawan over such a precious water body and which construction can be made anywhere else in the village. As has been noticed by this Court,

even the local authorities of the executive, have not bothered to look into such a fragile situation in taking stock to such a rampant construction in the area and have rather ducked from their duties. The ratio relied upon the judgment titled as 'Aasli @ Rajesh versus Gram Panchayat Nain' 2017 (2) PLR 863 by learned counsel for respondent No.1, is factually at much variance from the case before this Court. Therefore, the respondents needs to be halted from their pursuits. The two Courts below have taken a casual approach which is inhumane and has rather been swayed by previous litigation between the parties, which it is not supposed to do at this juncture, in such a situation.

In the light of the above discussion, the instant petition is allowed and respondents are restrained from proceeding ahead into their project over the land, in question.

The present petition stands disposed off accordingly.

14.07.2021

Neha

**(FATEH DEEP SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No