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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRWP-3403-2021

Date of Decision: 18th May, 2021

Ramesh Nath and another

Petitioners

Versus

State of Haryana and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Kartar Singh Malik-I, Advocate for the petitioners.

Mr. Deepak Bhardwaj, Deputy Advocate General, Haryana
assisted by Mr. Kuldeep Singh, S.H.O., P.S. IMT, Rohtak.

AVNEESH JHINGAN, J.

The matter is taken up for hearing through video conference due to COVID-19 situation.

This is a writ petition, seeking directions to the official respondents to provide security for protection of life and liberty of the petitioners and other members of *Chamarva Dera*, Rohtak. Further direction is sought to restore the *Samadh* on the place where it was existing. The prayer is for directions to the official respondents to take action against the private respondents for demolishing the old *Samadh* of *Guru(s)* of *Aughar Pir* Community in *Mastnath* premises. There is a prayer for directions to official respondents to register FIR against private respondents and thereafter sending matter to Central Bureau of Investigation.

It would be apposite to mention at this stage that both the petitioners had earlier approached this Court u/s 482 Cr.P.C. by filing CRM-M-8227-2021 [hereinafter 'CRM-M'], seeking similar prayers. The petition was dismissed on 22nd March, 2021. Order is quoted below:-

“This petition is filed under Section 482 Cr.P.C. for providing security and protection to the petitioners as well as other members of the Dera. Further prayer is for seeking direction to register FIR against the accused mentioned in para No. 4 of the petition.

As per the pleadings, the petitioners had made a representation dated 4.5.2020 but no action was taken.

Learned counsel for the petitioners submits that the petitioners belong to a particular community. They had Samadhi in the village Bhor Gaon, District Rohtak for more than 100 years; Dera was established about 300 years ago on the land donated by Khap of eight villages. He further submits that the official respondents be directed to register an FIR against the persons mentioned in the petition. It is contended that the incident of 4.5.2020 was reported and thereafter immediately representation was made to Station House Officer but no action was taken. The photographs of demolition annexed with the petition are relied upon. Submission is that one of the accused is a sitting Member of Parliament. It is stated that since no action is taken, the matter be referred to Central Bureau of Investigation.

On 22.2.2021, learned counsel for the State appearing on advance notice sought time to have instructions.

Today, learned counsel for the State, on instructions from Superintendent of Police, Rohtak submits that there was a Mela at the Dera for three days and due security was provided. She further submits that with regard to the representation made by the petitioner, two Committees – one headed by Additional Deputy Commissioner and other headed by Sub Divisional Officer were formed. The reports of Committees are ready and the same will be communicated to the petitioners within two weeks from today. The contention is that threat perception with regard to the petitioners was considered and in case any such prayer is made in future, the same would be dealt with expeditiously and in accordance with law. She further submits that the issue with regard to demolition of Samadhi etc. was subject matter before the Committees.

Without commenting on the issue as to whether the petitioners can seek security for all the members of the Dera, suffice to say that as per the statement made, during the Mela the police had made arrangements as per the need of the hour. Threat perception to the petitioners was considered and the matter has been kept open. As and when petitioners in case approach the police apprehending threat, the same would be considered expeditiously.

The grievance raised that no action is being taken on the representation dated 4.5.2020 no longer exists. The reports of two Committees would be communicated to the petitioners within two weeks.

The petitioners will be at liberty to avail remedies in accordance with law if aggrieved of the enquiry reports.

In view of disputed facts, it would not be appropriate for this Court to give directions for

registration of FIR against the persons named in the petition. The petitioners have remedies in accordance with law in case FIR is not registered.

No case is made out for transfer of the case to Central Bureau of Investigation. The petitioners are yet to get the reports of the Committees. It is not the case as alleged in the petition that the matter was not being proceeded with.

The petition is dismissed.”

During the course of arguments, a specific query was put to learned counsel for the petitioners as to how the second petition would lie.

Mr. Kartar Singh Malik, learned counsel for the petitioners submits that on 27th March, 2021, possession of *Dera* was taken by the private respondents, hence this petition.

The pleadings in earlier petition and present petition are virtually similar.

While deciding the earlier petition, this Court took notice of the fact that the official respondents had made police arrangements during the *Mela*. The threat perceptions were considered. Learned State counsel submitted that if the petitioners approach the police apprehending threat, the same would be considered expeditiously.

The Court was informed that Committees were formed with regard to allegations of demolition of *Samadhis* etc. The reports were ready and would to be communicated to the petitioners. The petitioners were given liberty to avail remedies in accordance with law

if aggrieved of the enquiry reports.

Vis-a-vis directions for registration of FIR, the petitioners were relegated to avail remedies in accordance with law in case aggrieved of non-registration of FIR.

By changing the counsel, the present writ petition is filed seeking same relief as sought under Section 482 Cr.P.C. petition.

There is no grievance raised against the enquiry reports. Neither the reports are annexed nor their contents are reproduced. The grievance is that the possession of *Dera* has been taken over by the private respondents.

Mr. Deepak Bhardwaj, Deputy Advocate General, Haryana appearing on advance notice has sent the reports of the Committees through electronic medium, print out of the same is taken on record.

Learned State counsel on instructions, submits that there is a complaint received against the petitioner No.2 that there is transfer of Rs. 8 crores from account of petitioner No.1 to petitioner No. 2 and the matter is being investigated.

The Committees formulated after granting opportunity to the parties concerned, perusing the record available and the spot inspection report came to the conclusion that *Samadhis* were not found on the spot, debris (*malba*) was lying there as construction work of the *Math* was going on.

The issue raised by *Ekta Manch* [hereinafter '*Manch*'] that 600 sq. yards of land be allocated for *Samadhis* of their *Sadhus* was

rejected, as the documents were produced whereby ownership was claimed by Baba Mast Nath Ayurved and Sanskrit Educational Institution Trust [hereinafter 'Trust']. The Trust assured that after renovation work of the *Mandir*, the *Samadhis* would be made but those would be under the control of the Trust.

The *Manch* raised the issue of ownership and partition. The Committee observed that as per the revenue record, the ownership is of the Trust, the name of Mahant Balak Nath Yogi disciple of Mahant Chand Nath is entered in the revenue record. Moreover, the issue of ownership or partition can be decided by the Court and not the Committee.

S.D.M. in his report considered the allegations of old *Samadhis* being removed and the complainant being threatened. In the report it was concluded that the dispute involves ownership claim of the land which can be decided by the Civil Court. The controversy being between the two private parties, no action is required to be taken by the Administration.

From the pleadings in the writ petition and from perusal of the Committee's reports, it is crystal clear that Trust and the *Manch* are claiming ownership over the land in dispute. The dismantling of *Samadhis* or possession of *Dera* is offshoot of the controversy of the ownership. In spite of liberty being granted by this Court in the CRM-M, instead of availing legal remedies, yet second attempt is being made before this Court by changing the heading of the petition from 'petition

under Section 482 Cr.P.C.' to 'writ petition'.

In view of the fact that earlier petition under Section 482 Cr.P.C. with similar prayers was dismissed on 22nd March, 2021, no case is made out for entertaining the present writ petition.

There is an attempt by the petitioners to camouflage ownership/ partition/ possession dispute as a criminal litigation. The conduct of the petitioners is not appreciable. Moreover, the grievance raised with regard to dispossession of petitioners from the *Dera* is a civil dispute, involving disputed questions of facts.

No case is made out for interference in the writ jurisdiction.

The petition is dismissed.

[AVNEESH JHINGAN]
JUDGE

18th May, 2021

pankaj barweja

1. Whether speaking/ reasoned	:	Yes
2. Whether reportable	:	Yes