

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRWP-9558-2021 (O&M)
Date of Decision:-8.10.2021

Abdul Razak Khan

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Rakesh Bhatia, Advocate for the petitioner.

Mr. Harbir Sandhu, AAG, Punjab.

Mr. Akashdeep Singh, Addl.P.P., U.T., Chandigarh.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking issuance of directions to respondents No.1, 2 and 5 to provide security to the petitioner as there is apprehension of threat to his life and liberty at the hands of respondents No.6 to 11, who are not permitting him to enter the '*Dargah*' situated in Village Daria, U.T., Chandigarh, being Khidmatgar/Mohatmim and Gaddi Naseen of Sakhi Sarver Sultan Lakhdatta Lala Wala Peer, Village Daria, U.T., Chandigarh.
2. The petitioner had earlier approached this Court seeking identical relief, wherein officials of U.T., Chandigarh had been arrayed as respondents and

no official from the State of Punjab was arrayed. Learned counsel for the petitioner has submitted that while the property in question is situated in U.T., Chandigarh but the petitioner resides in Zirakpur falling in State of Punjab and he apprehends that he may be caused harm while in his way from his residence to '*Dargah*' or on his way back.

3. Notice of motion.
4. At this stage, Mr. Harbir Sandhu, AAG, Punjab, upon whom an advance copy of petition had already been served accepts notice on behalf of the respondent-State of Punjab.
5. Mr. Akashdeep Singh, Addl.P.P., U.T., Chandigarh, upon whom an advance copy of petition had already been served, accepts notice on behalf of the respondent-State of U.T., Chandigarh.
6. This Court, while disposing off the earlier petition i.e. CRWP-5708-2021, had passed the following order:

“1. The petitioner has approached this Court seeking issuance of directions to official respondents to protect his life and liberty and also to protect Dargah Sakhi Sarver Sultan Lakhdatta Wala Peer situated at Village Daria, U.T., Chandigarh. Another prayer has been made for appointing a police officer of the rank of ASP/DSP to look into the matter and to remove the unauthorized occupants from the property in question and to register FIR under Section 295-A IPC against the offenders.

2. Notice of motion.

3. On asking of the Court, Mr. Viranjeet Singh Mahal, Addl.P.P., U.T., Chandigarh, upon whom an advance copy of petition had already been served, accepts notice on behalf of the respondent-State.

4. Learned counsel for the petitioner submitted that Gram Panchayat, Village Daria had initially filed a petition under Section 7 of Punjab Village Common Land (Regulation) Act for removing encroachment over Khasra No.23 (3-13) and to put the Gram Panchayat in possession over the property in question. The said petition was allowed vide order dated 2.5.2014 (Annexure P-1) passed by Sub Divisional Magistrate (East)-cum-Assistant Collector 1st Grade, U.T., Chandigarh. An appeal filed against the said order dated 2.5.2014 was disposed off wherein the order of Sub Divisional Magistrate (East)-cum-Assistant Collector 1st Grade, U.T., Chandigarh was upheld. Subsequently, upon a revision having been filed before the Commissioner the matter was remanded back to the Collector, where the same is still pending.
5. It has been submitted that although the matter is subjudice and is pending before the Collector, Chandigarh but the private respondents have encroached upon the property in question which is in the nature of Kabristan and Dargah and are trying to change the nature of the same by demolishing the graves etc. It has further been submitted that the private respondents are even bent upon causing harm to the petitioner and to other members of the Muslim Community.
6. I have heard the learned counsel for the petitioner as well learned State counsel.
7. Since the matter regarding property in question is stated to be pending before the Collector, Chandigarh wherein an application for stay has also been submitted, the Collector, Chandigarh is directed to dispose off the said stay application expeditiously particularly keeping in view the fact that the matter is serious in nature and could have larger ramifications in view of the religious sentiments of the community.
8. As far as the apprehension of the petitioner regarding threat to his life and liberty is concerned, this Court finds that earlier the

petitioner had moved an petition before this Court i.e. CRWP-2206 of 2020 wherein one Aman Bajaj was impleaded as a private respondent and wherein vide order dated 16.3.2020 (Annexure P-9) directions were issued by this Court to decide the representations dated 9.12.2019 and 16.12.2019. However, since 3 private respondents have been impleaded as respondents in the instant petition, it shall be open to the petitioner to move a detailed representation before respondent No.3-Senior Superintendent of Police, Chandigarh delineating his apprehension as regards threat to his life and liberty. In case, any such representation is moved, respondent No.3-Senior Superintendent of Police, Chandigarh shall have the same examined expeditiously in accordance with law. In case, it is found that there is any genuine threat to the life and liberty of the petitioner, then it be ensured that no harm is caused to the petitioner.

9. Further, since religious sentiments are involved in the matter in hand, respondent No.3-Senior Superintendent of Police, Chandigarh is directed to depute some Senior seasoned Officer to look into the matter.

10. The petition stands disposed off accordingly.”

7. Learned counsel for the petitioner has submitted that he had also filed a writ petition seeking issuance of directions to the Deputy Commissioner for expeditious disposal of the matter pertaining to the disputed property, wherein a direction had been issued on 14.9.2021 (Annexure P-36) to dispose off the matter within a period of 2 months.

8. Keeping in view the fact that earlier directions have already been issued for securing the life and liberty of the petitioner as there is some dispute regarding possession of the land situated in Village Daria, U.T., Chandigarh, which is stated to be ‘Dargah’ and a burial ground and the petitioner

apprehends that he may be caused harm near his place of residence, which is in State of Punjab, this Court deems appropriate to issue identical directions to the officials of State of Punjab as well. As such, it is directed that in case the petitioner moves a detailed representation before the Senior Superintendent of Police, SAS Nagar, Mohali delineating the reasons for his apprehension as regards threat to his life and liberty, the same shall be examined by Senior Superintendent of Police, SAS Nagar, Mohali expeditiously in accordance with law preferably within a period of 15 days from filing of such application. In case, it is found that there is genuine threat to life and liberty of the petitioner, then it shall be ensured that no harm is caused to the petitioner.

9. Since learned counsel for the petitioner has offered that the petitioner is willing to share a part of the expenses in case some PSO is attached to him, the Senior Superintendent of Police, SAS Nagar, Mohali shall examine the said offer as well and take a decision accordingly.
10. The Senior Superintendent of Police, SAS Nagar, Mohali may seek inputs regarding the matter from Senior Superintendent of Police, U.T., Chandigarh to whom identical directions have already been issued earlier.
11. Since certain allegations as regards deforestation in the disputed land have also been levelled, therefore, Executive Engineer (Horticulture), Municipal Corporation, U.T., Chandigarh is directed to look into the said allegations pertaining to deforestation in Village Daria, U.T., Chandigarh particularly in the area of Dargah/Kabristan in Khasra Nos.16 and 17 and to take necessary action as may be warranted under the facts and circumstances of the case.

12. A copy of this order be conveyed to Senior Superintendent of Police, SAS Nagar, Mohali and Executive Engineer (Horticulture), Municipal Corporation, U.T., Chandigarh apart from conveying it to the other official respondents.
13. The petition is disposed off accordingly.

8.10.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No