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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CWP-11759-2013 (O & M)
Date of Decision : 18.05.2023

CHATTAR SINGH AND ORS.

.....Petitioners

Versus

MUNICIPAL CORPORATION FARIDABAD AND ORS.

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present : Mr. O.P.Goyal, Senior Advocate assisted by
Ms. Parul Aggarwal, Advocate
for the petitioners.

Mr. Raman Sharma, Addl. A.G., Haryana.

SURESHWAR THAKUR, J. (Oral)

CM-8077-CWP-2023.

The application is allowed subject to all just exceptions and the additional affidavit of petitioner no. 6-Ravi alias Ravinder Kumar is taken on record alongwith annexure, as appended with the instant application.

CWP-11759-2013

1. The petition lands were admittedly reserved in the consolidation scheme as *Gadda Jaat Khad*, and as such were meant for their common user by the earmarked village proprietary body. However, the cause of action which arose in favour of the petitioners, thus became generated from a proposal made by the respondent concerned, to erect a wall encircling the said *Gadda Jaat Khad*, comprised in Khasra No. 39//9.

The said dispute resulted in this Court making a decision on 23.10.2013, on the instant writ petition whereby on assurance of the respondent concerned, this Court directed the boundary wall, as was to be constructed would have adequate gate/gates for access to the members of the village proprietary body, so that their enjoyment in respect of the above reservation is completely facilitated. The relevant paragraph of the said order is reproduced hereafter.

“The petitioners, members of the scheduled caste community, claim to be non-proprietors permanent residents of Village Unchagaon which is now within the bounds of the Municipal Corporation, Faridabad. It is their say that in the consolidation proceedings, which were completed on 25.03.1954, 25 kanals 1 marla and 2 kanals 1 marla in all were left for manure pits for proprietors and non proprietors. This area is stated to fall outside the abadi deh. Khasra No. 39//9 measuring 5 kanals 14 marlas was reserved for Gadha Jaat Khad (manure pits) for non-proprietors and in terms of the provisions of the East Punjab Holdings (Consolidation and Prevention) Act, 1952, such land reserved for manure pits vests with the proprietors and non-proprietors for whose benefit it is given under the scheme of consolidation.

The grievance made in the petition is that the Municipal Corporation is endeavouring to take over the possession of the land and is constructing a boundary wall on its periphery.

In the written statement filed by the Municipal Corporation, it has been admitted that a tender for construction of a boundary wall on the periphery of Khasra No. 39//9 was floated vide notice dated 22.04.2013. The object of this is stated to be to save the inhabitants of the nearby area from foul smell arising from the dumping of garbage and waste and from breaking out of any epidemic during rainy season or otherwise.

Learned counsel for the respondent appearing before us does not dispute the status of the land as set out hereinabove and submits that the petitioners are entitled to use the land. He further assures that the boundary wall will be constructed with adequate

gate/gates to provide access so that the enjoyment of the land is unhindered.

We, thus, dispose of the writ petition on the basis of the aforesaid statement, whereby the wall should be constructed only on the periphery of the land while providing gates for ingress and egress.”

2. The above order became challenged by the aggrieved before the Hon'ble Apex Court. The Hon'ble Apex Court as revealed by an order, appended to the instant writ petition, as Annexure P-17, proceeded to after setting aside, the verdict (supra), as made by this Court, thus make an order of remand to this Court for making a re-examination of the claim (supra), as became raised before this Court by the petitioners.

3. Be that as it may, the learned State counsel has placed on record an affidavit sworn by the Joint Commissioner, Municipal Corporation, Faridabad, Ballabgarh Zone, wherein in paragraph No. 4 thereof, para whereof become extracted hereafter, it has been spelt, that owing to local resistances and litigation arising amongst, the members of the village proprietary body concerned, thus against the construction of the boundary wall, therefore, the said boundary wall is not being constructed and the tender notice inviting offers for execution of the said boundary wall have rescinded.

“4. That with regard to the construction of boundary wall on the khasra no. 39//9, village Uncha Gaon, Ballabgarh – Faridabad, it is submitted that the respondent – Corporation floated a tender dated 22.04.2013 and there upon issued work order dated 17.09.2013, but due to local resistance and pending of the litigations the boundary wall could not be constructed.....”

4. In the face of the above, the learned counsel for the petitioners withdraws the extant writ petition.

5. Dismissed as withdrawn.
6. However, as and when the respondent concerned, propose to raise a boundary wall skirting the said *Gadda Jaat Khad*, thereupon, it shall prior thereof, issue a notice to the petitioners so that thereby they are facilitated to raise objections to the construction of the said boundary wall.

(SURESHWAR THAKUR)
JUDGE

18.05.2023

kavneet singh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(KULDEEP TIWARI)
JUDGE