

112 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-24173-2024 (O/M)
Date of decision : 13.12.2024

Manjeet Petitioner

Versus

Municipal Corporation Rohtak and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Shreenath A. Khemka, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG Haryana.

Ms. Shweta Bawa, Advocate
for respondents No. 6 to 18.

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HARSH BUNGER, J. (ORAL)

CM-19419-CWP-2024

This is an application filed under Section 151 CPC for placing on record letter dated 12.11.2024 as Annexure P-14.

For the reasons mentioned in application, same is allowed and letter dated 12.11.2024 (Annexure P-14) is taken on record subject to all just exceptions.

Application is accordingly disposed of.

CM-20152-CWP-2024

This is an application filed under Section 151 CPC for placing on record certain documents as Annexure P-15 to Annexure P-17.

For the reasons mentioned in application, same is allowed and documents (Annexure P-15 to Annexure P-17) are taken on record subject to all just exceptions.

Application is accordingly disposed of.

CM-20213-CWP-2024

This is an application filed under Order 1 Rule 10 CPC read with Article 226 of Constitution of India seeking impleadment of applicants as respondents No. 6 to 18, being necessary party to the case.

For the reasons mentioned in application, same is allowed and applicants, being necessary party to the case, are permitted to be impleaded as respondents No. 6 to 18 for the purpose of instant case only.

Application is accordingly disposed of.

CWP-24173-2024

1. Petitioner (Manjeet) has filed the instant civil writ petition under Article 226 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside notice dated 16.08.2023 (Annexure P-4), whereby Municipal Corporation, Rohtak has authorised respondent No. 5 (S.R. Construction) to construct cremation shed in Sector 28, Rohtak.

1.1 Another prayer has been made for issuing a writ of mandamus for directing respondents to raze the illegal construction raised on khasra No. 396 and to restore the site and access.

1.2 A further prayer has been made for directing appropriate departmental action against the erring officials.

2. Briefly, petitioner claims to be resident of Sector 28, Rohtak and is aggrieved by the construction of cremation shed by Municipal Corporation in the residential neighbourhood. Petitioner states that earlier he had preferred a writ petition (CWP-23680-2023) before this Court on the plea that the site at which cremation shed was built i.e.

khasra No. 396; same has already been acquired by Haryana Shehri Vikas Pradhikaran (HSVP) in 2005 and also that cremation shed posed sever health hazard, which is violative of Section 306 of the Haryana Municipal Corporation Act, 1994. It is stated that the aforesaid writ petition came to be disposed of by this Court on 18.10.2023 directing respondents to pass a speaking order on representation dated 09.10.2023, submitted by petitioner. It is stated that since no action was taken by the authorities in pursuance to order dated 18.10.2023, petitioner filed a contempt petition (COCP-2960-2024), wherein notice was issued and thereafter, Commissioner, Municipal Corporation, Rohtak passed an order dated 12.09.2024 (Annexure P-16), holding that Municipal Corporation, Rohtak has no locus to carry out construction activities on the land.

3. In the aforementioned circumstances, petitioner has filed instant writ petition before this Court for the relief(s), as noticed hereinabove.

4. Heard.

5. A perusal of the writ petition would suggest that petitioner is aggrieved against construction of cremation shed in the vicinity of area where he is a resident. Petitioner claims that cremation shed is built on khasra No. 396 and in support thereof, he has placed reliance upon Annexure P-3 (akshajra/site plan). However, a perusal of said site plan (Annexure P-3) would show that no khasra number, as claimed by petitioner, is mentioned thereon. Further, as per revenue record, which has been placed on record by petitioner, khasra No. 396 of village Bohar (Hadbast No. 68, District Rohtak) is recorded as in the ownership of shamlat panna and the nature of land is recorded as gair mumkin johar.

6. In my considered view, the writ petition involves disputed questions of fact, which would require leading of evidence, which is not permissible in the proceedings, accordingly, the writ petition is dismissed, however, leaving it open to the petitioner to avail the other remedies as available under the law.

7. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

13.12.2024
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No