



2026:AHC:213197-DB

**Reserved**

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**WRIT - C No. - 32507 of 2026**

Christian Community Welfare Society

.....Petitioner

Versus

State of U.P. and others

.....Respondents

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|-----------------------------|---|---------------------------|
| Counsel for the Petitioner  | : | Sunita Rao, Vandana Henry |
| Counsel for the Respondents | : | C.S.C., Manu Saxena       |

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**Court No. - 2**

**HON'BLE J.J. MUNIR, J.  
HON'BLE INDRAJEET SHUKLA, J.**

**(Delivered by Hon'ble J.J. Munir, J.)**

1. The Christian Community Welfare Society is a society registered under the Societies Registration Act, 1860. It is registered with the Deputy Registrar, Firms, Societies and Chits, Meerut. The address of the society is House No. 47/9, Double Storey, Govindpuri, Modi Nagar, Kadrabad, District Ghaziabad, U.P. Amongst the many religious objectives of the society, one is to extend assistance in the performance of last rites of Christians.

2. This petition has been instituted by the Christian Community Welfare Society, Modi Nagar, Ghaziabad (for short, 'the Society') through its President Vinay Kumar Paul, calling in question an order made by the District Magistrate of Ghaziabad dated the 7<sup>th</sup> of January, 2026, declining the petitioner's proposal to earmark and reserve *khasra* no. 1(*minjumla*), admeasuring 0.3420 hectare, situate at Village Visokhar, Pargana Jalalabad, Tehsil Modi Nagar, District Ghaziabad, for the purpose of a Christian Cemetery after altering its current recorded nature as Class 6(4) land of *usar* (barren land).

3. This petition was initially instituted as a public interest litigation, being Public Interest Litigation (PIL) No. 1815 of 2026. Their Lordships of the Division Bench, before whom the PIL came up on 31.07.2026, were of opinion that the petition questions the validity of the order

refusing to allot the particular piece of land as a graveyard at the instance of the petitioner and a PIL, questioning the validity of an order passed at the instance of the petitioner, cannot be countenanced. The Division Bench, however, opined that the petitioner, if aggrieved by the said order, is at liberty to initiate appropriate proceedings challenging it. The Division Bench also permitted the petitioner to convert the PIL into a regular writ petition and directed it to be registered as a Writ-C matter. It is in this way that PIL No. 1815 of 2026 came to be registered as a regular writ petition, which has now come up before us.

4. We have heard Ms. Vandana Henry, learned Counsel for the petitioner and Mr. Pradeep Kumar Singh, learned Standing Counsel appearing for the State.

5. The petitioner's case in brief is that a land, bearing *khasra* no. 1(m), admeasuring 0.3420 hectare, situate at Village Visokhar, Pargana Jalalabad, Tehsil Modi Nagar, District Ghaziabad, is a barren land and residents of the locality of Pargana Jalalabad, hailing from the Christian Community, are facing tremendous hardship in regard to the performance of funerals. Bearing this predicament in mind, the petitioner made applications to the Authorities competent in the matter, seeking allotment of land for the performance of last rites for members of the Christian Community. Upon an application for the purpose, a meeting of the Board of the Nagar Palika Parishad, Modi Nagar was held on 22.01.2018 and through their resolution no. 11, the land bearing *khasra* no. 1(m) last described (for short, 'the land in question') was resolved to be allotted for housing the Christian Cemetery. The resolution passed by the Nagar Palika Parishad last mentioned was forwarded to the Additional District Magistrate (Administration), Ghaziabad, who in turn forwarded it to the District Magistrate. The petitioner says that despite the resolution of the Nagar Palika Parishad, approving reservation of the land in question for the purpose indicated, no action was taken by the District Magistrate.

6. The Executive Officer of the Nagar Palika Parishad, through his letter of 18<sup>th</sup> January, 2019, requested the District Magistrate to mutate the land in question for the purpose indicated. There was then, according to the petitioner, a slew of correspondence by the petitioner to press their case for conversion of this land and reservation for the Christian Cemetery, addressed to various Authorities. It is averred that there is no

objection from any section of the Society to the establishment of the Cemetery, but the District Magistrate paid no heed. It also transpires that much information relating to the progress in the matter was secured by the petitioner by invoking the provisions of the Right to Information Act. The petitioner then instituted Public Interest Litigation (PIL) No. 748 of 2025 before this Court with a prayer to direct the respondents to permit the Christian Community use of the land in question for the purpose of housing a graveyard. This Court *vide* order dated 02.12.2025 passed in PIL No. 748 of 2025 directed the respondents to take steps in the matter and fixed 16.01.2026. It was pursuant to the said direction that the Additional District Magistrate (Administration), Ghaziabad *vide* order dated 07.01.2026 rejected the petitioner's request for converting the barren land in question into a public utility land by reserving it for the Christian Cemetery, in the exercise of powers under Section 77(2) of the Uttar Pradesh Revenue Code, 2006 (for short, 'the Revenue Code'), which apparently stand delegated to the District Magistrate by the State Government *vide* a notification dated 06.07.2020.

7. Aggrieved by the aforesaid order, the petitioner has preferred the present writ petition.

8. The petitioner's case is that out of four places, to wit, Begamabad Budana, Kadrabad, Bisokhar and Sikri Khurd, there is one graveyard available to Christians in Begamabad Budana. Again a wealth of information relating to Christian Cemeteries and relevant matters in the locale was secured by the petitioner invoking the provisions of the Right to Information Act, 2005. It is argued by the learned Counsel for the petitioner that the grievance of theirs is that, that the non-allotment of the land in question for a Christian Cemetery affects their fundamental right to freedom of religion, of which the last rites are a part. The said right is being impaired on account of non-allotment of suitable land to serve as a graveyard to the community, the graveyard in Begamabad Budana being short of space.

9. Upon hearing learned Counsel for the petitioner and a perusal of the impugned order passed by the Additional District Magistrate (Administration), what we find is that the proposal of the Nagar Palika Parishad to accede to the petitioner's request was sent by the Additional District Magistrate for report to the Sub-Divisional Magistrate, Modi

Nagar *vide* letter dated 16.12.2025. The Sub-Divisional Magistrate, Modi Nagar submitted his report through a memo dated 31.12.2025 to the Additional District Magistrate, saying that he had made inquiry into the matter. The land in question was indeed recorded as barren land (*usar*). It was lying vacant on the spot and according to the local traditions, this land is not used by any community for the purpose of a graveyard. The Sub-Divisional Magistrate also reported that apart from members of the Christian Community, other locals and communities had made an application that if the land in question is allotted to the Christian Community for the purpose of their cemetery, it might give rise to communal differences in future. In addition, one application had been received, seeking allotment of the land in question for the purpose of housing the Chaudhary Charan Singh Dharamshala. The Sub-Divisional Magistrate reported that if this land were allotted to the Christians for housing their cemetery, there could be similar demands from members of other communities. The Sub-Divisional Magistrate also said that in Village Begamabad Buadana, Tehsil Modi Nagar in *khasra* no. 1603, a Christian Cemetery was located at a distance of 150 meters from the Hapur-Niwari Road, which was currently in use. The Sub-Divisional Magistrate opined that there was no justification at present for allotting the land in question for the purpose proposed. A photograph was also enclosed. It was bearing in mind the aforesaid points, the Additional District Magistrate opined that there was no justification to allot the land in question to the Christian Community for the purpose of housing their cemetery and rejected the application.

**10.** The decision to change the use of barren land entrusted to the Gaon Sabha or other local body for the purpose of management, which vests in the State Government, can be taken under Clause (ii) of sub-Section (4) of Section 59 of the Revenue Code, permitting a conversion from land not covered by sub-Section (1) of Section 77 of the Revenue Code, to land covered by the aforesaid provision. In other words, land entrusted for other uses specified to the Gaon Sabha, upon a decision by the State Government, can be converted into public utility land covered by Section 77(1) of the Revenue Code. The land earmarked for a cremation ground or a graveyard is certainly public utility land. The power to grant conversion of land entrusted to the Gaon Sabha can be delegated to the

District Magistrate, which has been done in the present case through a notification and that is how the Additional District Magistrate has dealt with the petitioner's application, seeking conversion, which he has declined.

**11.** Now, the decision to grant conversion of land entrusted to the Gaon Sabha or vesting in it for a purpose covered by Section 77(1) of the Revenue Code is essentially an executive decision taking into account various contingencies and factors. There is no right inhering in any one, in the sense of it being justiciable, to seek conversion of a particular non-public utility land, vested in a Gaon Sabha or a local body, into a public utility land governed by Section 77(1). The host of factors and considerations that would go into a purely executive decision of the kind involving conversion of land, that is barren, into public utility land, earmarked for a graveyard, does not involve any such decision on the foot of which the petitioner may say that their fundamental right to the practice of their religion has been violated. It is true that the petitioner might say that the right to perform last rites in accordance with the tenets of their religion is part of their right to freedom of religion, but that right cannot be claimed exercise of in the fashion that may entitle the petitioner or members of the Christian Community for the reservation of a particular plot of land vested in the local body for the purpose of housing a Christian Cemetery. It is another matter that the petitioner may seek reservation of a suitable plot for the purpose, if indeed there are short of space, which the Authorities would consider, bearing in mind the larger and diverse public interest of citizens, who are resident in the area.

**12.** In our considered opinion, there is nothing justiciable about the order impugned passed by the Additional District Magistrate (Administration), Ghaziabad, which may entitle the petitioner to the relief that they seek, to wit, quashing the order impugned and a *mandamus* directing the respondents to allot the land in question to the petitioner for the purpose of housing a Christian Cemetery.

**13.** In this result, this petition **fails** and is **dismissed**.

**(Indrajeet Shukla,J.) (J.J. Munir,J.)**

**October 12, 2026**

Anoop