



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-430-2024 (O&M)
Date of decision : 10.04.2024

Baljit Singh and others ...Appellants

Vs.

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Ms. Suman Saharan, Advocate for
Mr. Sandeep Goyat, Advocate for the appellants.

DEEPAK MANCHANDA, J.

1. Through present intra-court appeal, the appellants have assailed the judgment dated 25.01.2024 passed by the learned Single Judge, whereby the writ petition filed by the appellants seeking quashing of the impugned orders dated 07.09.2022 (Annexure P-1), 22.02.2023 (Annexure P-2) and 27.12.2023 (Annexure P-3) was dismissed.
2. The facts emanating from the pleadings of the present appeal are that respondent No.5 filed an application for restoration of the water course running over the Murabba No.70, killa No.3-8, which was allowed vide order dated 07.09.2022 (Annexure P-1) and was affirmed by respondent Nos.2 and 3 vide orders dated 22.02.2023 (Annexure P-2) and 27.12.2023 (Annexure P-3). Aggrieved against the aforesaid orders, same were challenged through CWP No.1746-2024 by the appellants, which was dismissed vide impugned judgment dated 25.01.2024.

3. Learned counsel for the appellants contended that the petition filed by the respondents was illegally accepted by the respondent No.4 vide order dated 07.09.2022 and appeal filed against the same was not heard, wherein the *ex parte* order dated 22.02.2023 was passed. Learned counsel further contends that the water course runs through the land of the appellants and the same could not have been directed to be restored from their personal land, which is not in existence and this fact can easily be analyzed through Jamabandi, Aksh Sijra, Khasra Girdawari and all these documents were not appreciated by the respondent-authorities while affirming the order dated 07.09.2022 vide which the water course was ordered to be restored.

4. We have heard learned counsel for the appellants and have perused the material available on record.

5. The learned Single Judge after appreciating the relevant record including the orders dated 07.09.2022 (Annexure P-1), 22.02.2023 (Annexure P-2) and 27.12.2023 (Annexure P-3) concluded that respondent No.4 i.e. Sub Divisional Canal Officer, Sirsa inspected the spot on 06.09.2022 and the watercourse was found to have been demolished, which has also been reflected from Parat Warabandi dated 19.07.2000, where the turns for Account Nos.26 to 29 were approved on the said water course at point PQ. Learned Single Judge further observed that the water course as PQ was established since the year 2000 and the same is 20 years old, which falls under the category of permanent course. The said fact has been duly endorsed in the aforesaid orders passed by respondents No.2 to 4 by granting opportunity of hearing to the parties. The entire material available on record reveals that the same was re-appreciated with the specific findings that Warabandis were never challenged

by the appellants. The relevant findings given by all three Revenue Authorities regarding the existence of the water course had been duly established, but same was found to be demolished.

6. The findings in reference to order dated 07.09.2022 (Annexure P-1) passed by respondent No.4 read as under:-

“After recorded the statements of appellant and defendant the argument of both the parties have been heard. The record attached with the case file has been perused and after perusing the Site Plan and other documents it reveals that Site Plan approved by concerned Clerk attached with the case and approved copy of Turning dated 19.02.2000 and the statistic of Irrigation, Canal Khasra Girdawari of Crop Kharif 2019 to Crop Rabi 2021-22, on the perusal of all these documents it seems that as per shown in the Site Plan water Course fro Point Rectangle No.70, Killa No. 2-3 and Rectangle No. 70 Killa No.12 to 13 is in running condition since dated 19.09.2000 and through this disputed water course the irrigation of the area of the applicant was continued, from the same it seems that the disputed water course was running since more than last 20 years. As per Haryana Canal Act 29 of 1974 the water Course which has been running since 20 years or more than 20 years then that water course falls in permanent water course category. Therefore, the claim of the applicant is liable to be allowed. On 06.09.2022 I have inspected the spot, in which Rectangle No. 70 its Killa No. 2-3, on Point A.B. and Rectangle No. 70 its Killa No.12-13 on Point C.D. the water course found demolished. For which the irrigation of the applicant cannot be possible.

Keeping in view the above facts under Section 2 (15) of Haryana Canal Act 29 of 1974 the order is being passed to got restore permanent water course of the disputed water course already running on Eastern Line from North to South side of Point PQ Rectangle/Killa 70// 2 - 3 and 70// 12 – 13.”

The findings in reference to order dated 22.02.2023 (Annexure P-2) passed by respondent No.3 read as under:-

“The statements of both the parties were recorded. After hearing the allegations and counter-allegations, the case was reviewed. On reviewing the map and other attached documents, it was found that the Sub-Divisional Canal Officer, Mamadkhera Water Services Sub-Division, Sirsa inspected the spot on 06.09.2022 and the water course was found to be demolished. The map dated 26.09.2000 certified by the Assessment Clerk attached in the case has been shown to be in working condition at the spot. Apart from this, as per the padat warabandi dated 19.07.2000, waris/turns for the account no. 26 to 29 are approved on this water course P,Q. There is no evidence on record to show that the Appellant had raised any objection to the water distribution on this water course. Hence, water course P,Q was running since the year 2000, out of which the point A, B and point C, D has been dropped because water course was running from time to time for more than twenty years. Therefore, under Section 2(15) of Haryana Canal Act 29, 1974 it comes under the category of permanent water course, hence it is appropriate to restore it permanently.”

The findings in reference to order dated 27.12.2023 (Annexure P-3) passed by respondent No.2 read as under:-

“I have gone through the revenue missal, khaka plan and parat warabandies of dated 08.06.2000, 19.07.2000, 19.09.2000 and 15.02.2022 as well as khaka Plan dated 26.09.2000. Arguments of the parties for and against the restoration have also been considered at length. This case of Bhakra Water Services Circle, Sirsa was transferred to this Court by the Chief Canal Officer/BWS, Irrigation and Water Resources Department, Haryana, Panchkula vide his memo No. 112-13/HRC dated 06.06.2023 for deciding the issue on merits.

Perusal of record shows that the Sub Divisional Canal Officer has inspected the site on 06.09.2022 and found the watercourse dismantled. The approved Khaka Plan dated 26.09.2000 shows that this watercourse was in existence. As per parat warabandi dated 19.07.2000 the waries of the respondents at serial No. 26 to 29 were sanctioned on the watercourse in question. The warabandi was also not found challenged by the present petitioner as per record contained in

the revenue missal. Thus it is wrong to say that there was no such watercourse in the land of the petitioner. Even it is not supported by the documentary evidence. Accordingly, the watercourse in question falls in the category of a regular watercourse under Section 2 (15) of the Haryana Canal & Drainage Act 29 of 1974 being run for more than 20 years.”

7. In the light of above concurrent findings given by all the respondent/authorities after re-appreciating the entire relevant record, where learned Single Judge after relying upon the same dismissed the writ petition with the findings that the existence of water course had been duly proved on the basis of revenue record, we do not find any infirmity in the judgment passed by the learned Single Judge.
8. Consequently, the appeal fails and same is dismissed.
9. Since the main case is dismissed, pending application(s), if any, have also rendered infructuous.

(DEEPAK MANCHANDA)
JUDGE

(DEEPAK SIBAL)
JUDGE

10.04.2024
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No