

IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.

CWP No. 9333 of 1993. [O&M]
Date of Decision: 07th December, 2015.

Rattan Singh & Ors. Petitioners through
Mr. I.P.Singh, Advocate

Versus

Additional Director [Holdings], Punjab & Ors. Respondents through
Mr. Som Nath Saini, Advocate,
for respondents No. 2 and 3.

**CORAM:HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B.BAJANTHRI**

- 1. Whether Reporters of local papers may be allowed to see the judgment?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

SURYA KANT, J. [ORAL]

The petitioners have laid challenge to the order dated 30.04.1993 [P-3] passed by the Additional Director, Consolidation, Punjab, whereby the petition filed by respondent No. 2 [now represented by his legal representatives] to provide Water-Course through the petitioners' land from a 'Well' to the respondent's Killa Numbers was allowed and Water-Course was ordered to be provided through the Khasra Numbers, mentioned in the ultimate paragraph of the order.

[2]. The aggrieved petitioners approached this Court and vide order dated 05.08.1993, operation of the said order was stayed. The interim stay was confirmed while admitting the writ petition.

[3]. When this writ petition came up for final hearing on 08.07.2015, learned counsel for the parties were asked to find out whether the 'Well' which was the source of irrigation and for which the Water-Course was ordered to be carved out, was still being used by the parties or they have installed their respective Tube-wells?

[4]. In deference to the above stated order, one of the petitioner – Kamaljit Singh son of Bachna Ram has filed his affidavit and in Para No. 4 thereof, he has averred as follows:-

"....The said Tubewell is being run with an electric connection for the last more than a decade. The Petitioners have also constructed a room in this regard which is depicted in the Photographs being placed on record. The factum regarding Tubewell and irrigation of land is also recorded in the Revenue record".

[5]. Similarly, in Para No. 5, he has further averred that:-

"That the other party has also installed Tubewell in their respective private land. They have installed the Tubewell in land bearing Khasra No.19//18. The said Tubewell is being run with a diesel engine for the last more than a decade. The factum regarding Tubewell and irrigation of land is also recorded in the revenue record".

[6]. In support of the above-said averments, Photographs have also been placed on record.

[7]. Shri Som Nath Saini, counsel for the contesting respondents submits that despite repeated communications, the respondents have not come forward to refute the above-mentioned averments and/or to file their affidavit.

[8]. In view of the above stated subsequent events, it appears that the very foundation of initiation of these proceedings has disappeared as the Well in question is no longer functional for irrigation purposes. The direction issued vide the impugned order, thus, has become redundant. That apart, as noticed earlier, operation of the impugned order was stayed by this Court in the year 1993 and it never came to be implemented.

[9]. Taking into consideration totality of the above-mentioned facts and circumstances, the writ petition is allowed and the impugned order dated 30.04.1993 [P-3] is set aside. If the private respondents have any dispute on facts, liberty is granted to them to seek modification of this order within a period of three months from today. Dasti.

(SURYA KANT)
JUDGE

December 07, 2015.
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(P.B.BAJANTHRI)
JUDGE