

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.11895 of 2012

Date of Decision:-21.07.2015

Gurdeep Singh.

.....Petitioner.

Versus

Superintending Canal Officer, Patiala & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. D.P. Singh, Advocate for the Petitioner.

Ms. Monica Chhibber, Deputy Advocate General Punjab.

Mr. G.N. Malik, Advocate for respondent no.3.

Mr. Vijay Sharma, Advocate for respondent no.4.

JASWANT SINGH, J.(ORAL)

The petitioner is the land owner of agricultural land comprised in *inter alia* Killa of rectangle no.14//20. In the same rectangle adjoining Killa Number No.19 is owned by Nachhattar Singh respondent no.4 and the agricultural land comprised in large chunk including the adjoining Killa No.22 and 23/14 in the Revenue Estate of Naraingarh, Tehsil Nabha, District Patiala is owned by Taj Mohammed-respondent no.3. Concededly there is no water course available for irrigation of land of Taj Mohammed. Accordingly he approached the authorities under The Northern India Canal and Drainage Act 1973 for allotment of water course which was declined by the managing authorities, resulting into the filing of a writ petition bearing

CWP No.2780 of 2010 by the said Taj Mohammed. In the said writ petition only Nachhattar Singh, whose land abuts the said land of Taj Mohammed was impleaded as the respondent party. During the Course of hearing, an agreement was arrived at whereby the water course at point G to H from the common "*Watt*" of Khasra No.19/20 subject to demarcation would be provided for irrigating the land of the Taj Mohammed and accordingly the matter was remanded back to the Canal Authorities for passing fresh order.

Accordingly the proceedings were initiated before the Divisional Canal Officer for sanctioning of 1 Karam wide water course on compensation on the joint *Watt* (field boundary) of Killa of rectangle no.14 Killa No.19-20 at outlet Bhurj 3900-Left Upla minor under Section 30-B (2) of the Amended Canal Act 8 of 1973. Since the Killa No.20 in the said rectangle is owned by present petitioner Gurdeep Singh, he was served with due notice. He presented himself and got recorded his statement. His stand was that since Nachhattar Singh had agreed before the Court to provide land from his Killa No.10, therefore, 1 Karam wide water course at point G to H be provided from Nachhattar Singh's land only.

Upon hearing the parties and considering the material on record, Divisional Canal Officer vide impugned order dated 24.08.2011 (P-6) accorded sanction to the water course on the common *watt* (field boundary) of Killa No.14//19-20 on the Western side on point G to H (as per site plan) on payment of compensation to the Gurdeep Singh and Nachhattar Singh. Dissatisfied against order dated 24.08.2011 (P-6) Gurdeep Singh filed an appeal before the Superintending Canal Officer and the same has been dismissed vide impugned order dated 02.02.2012 (P-7).

Upon notice the State has filed its written statement.

Respondent no.4-Nachhattar Singh has filed his separate written statement whereas respondent no.3-Taj Mohd. has adopted the reply filed by the State. During the course of hearing, the status report dated 9.2.2015 by way of affidavit of Divisional Canal Officer, Lehal Division IB, Patiala-respondent no.2 was also filed in the Court.

After hearing learned Counsel for the parties and perusing the paper book, this Court finds no ground to interfere with the impugned orders.

Perusal of the Status report dated 09.02.2015 filed by Amrit Lal Goel, Divisional Canal Officer, Lehal Divn., IB, Patiala-respondent no.2 would show that till today the irrigation of land of respondent no.3-Taj Mohammed has not been done because the water course has not been dug at the spot from point G to H on the common land of Killa No.14//19-20 by Nachatter Singh and Gurdeep Singh which is as per the map attached along with the report and the same is due to the reason that litigation is pending and no compensation has been assessed under Section 30(D) of the 1973 Act. Furthermore, a finding of fact has been recorded by the authorities below by relying upon the previous order passed by this Court in CWP No.2780 of 2010 whereby it was directed that Canal water has to be provided for irrigation purpose, the order passed by the authorities below in view of the facts stated above that after granting compensation to Nachatter Singh by assessing the compensation under Section 30(D) of the 1973 Act a water course be provided to Taj Mohammed-respondent no.3 so that the orders passed by this Court in CWP No.2780 of 2010 are implemented in letter and spirit.

In view of the above, finding no merit in the present writ

petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

July 21, 2015
Vinay