

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.20339 of 2010
Date of decision: 18.02.2015**

Harchand Singh

....Petitioner

versus

Superintending Canal Officer, Sirhind Canal Circle and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Surinder Garg, Advocate,
for the petitioner.

Mr. K.K. Gupta, Addl.A.G., Punjab.

Mr. N.S. Dandiwal, Advocate,
for respondent No.3.

DEEPAK SIBAL, J. (Oral)

Through the present writ petition, the petitioner challenges order dated 13.03.2009 passed by the Divisional Canal Officer, Faridkot Canal Division, Faridkot, (Annexure P-1) and order dated 14.06.2010 passed by the Superintending Canal Officer, Sirhind Canal Circle, Ludhiana, (Annexure P-3) with a further prayer not to include 5.23 acres of land of respondent No.3 in outlet Burji No.96270-L Rajwaha Jagraon.

The factual matrix of the matter in brief leading to the filing of the present petition before this Court is that respondent No.3 moved an application to the Divisional Canal Officer, Faridkot Canal Division, Faridkot for inclusion of his land measuring 5.23 acres in outlet Burji 96270-L Rajwaha Jagraon instead of outlet Burji 90050-L Rajwaha Jagraon.

The Divisional Canal Officer referred the application made by respondent No.3 to the concerned Zileadar for enquiry who got prepared the Fard of the land and the site plan from the Patwari and also recorded the statements of the petitioner as also respondent No.3. Thereafter, the concerned Zileadar recommended the case of respondent No.3 to the Sub Divisional Officer, Jagraon. After further verification by the concerned Junior Engineer and the Sub Divisional Officer, Jagraon, the case of respondent No.3 was recommended to the office of the Divisional Canal Officer, Faridkot. Thereafter, the Divisional Canal Officer heard both the parties and allowed the application filed by respondent No.3 after returning a clear cut finding that the land of respondent No.3 was not being properly irrigated as the water course which was irrigating his land was in broken condition and the water course of the proposed outlet was adjoining to the land of respondent No.3 and would, thus, irrigate the land of respondent No.3 in a better way.

The above order passed by the Divisional Canal Officer was challenged by the petitioner before the Superintending Canal Officer, who after considering the entire matter and hearing both the parties dismissed the appeal filed by the petitioner after holding that the acceptance of the application by respondent No.3 would be in the better interest of irrigation of his land.

On dismissal of the appeal, the petitioner has knocked the doors of this Court challenging both the above orders passed by the Divisional Canal Officer and the Superintending Canal Officer.

I have heard learned counsel for the parties with their able assistance and have gone through the record of the case.

Learned counsel for the petitioner has not shown any prejudice caused to the petitioner on the passing of the above referred two orders impugned by him. He has also not disputed the above referred two orders impugned by him on the merits of the case.

Irrespective of the above, a perusal of the orders impugned by the petitioner shows that the application moved by respondent No.3 has been allowed on the recommendations made by the concerned Zileदार, the Sub Divisional Officer and the Junior Engineer. Thereafter, both the Authorities i.e. the Divisional Canal Officer and the Superintending Canal Officer have also returned concurrent findings in favour of respondent No.3.

The only argument raised on behalf of the petitioner is with regard to questioning of the identity of respondent No.3. It was submitted that the person who had made the application to the canal authorities was one Nachhatar Singh son of Bhoda Singh whereas in the jamabandis placed on the record as Annexures P-5 and P-6 to the present petition, the land in question is owned and possessed by some other person. While referring to the jamabandi annexed as Annexure P-5, learned counsel for the petitioner drew my attention to the column of ownership in which Nachhatar Singh adopted son of Narain Singh was mentioned. Learned counsel further while referring to jamabandi annexed as Annexure P-6 submitted that the land covered under that jamabandi was also not owned by respondent No.3 as his name did not find mention in the column of ownership.

I have minutely perused both the Annexures. So far as the Annexure P-5 is concerned, the same is a copy of a jamabandi of an area 47 kanals and 7 marlas. A perusal of the khasra numbers so mentioned in this jamabandi when compared to the khasra numbers of the land in question are

found to be different. Therefore, reliance on this document by the petitioner is misplaced.

So far as the jamabandi annexed as Annexure P-6 is concerned, it pertains to land measuring 35 kanals and 13 marlas whereas the total land in question is 41 kanals and 17 marlas. On being posed a question, so as to who is the owner of the remaining over 6 kanals of land, learned counsel for the petitioner drew a blank. Further, a perusal of this document shows that all the khasra numbers as mentioned in the jamabandi (Annexure P-6) do not match with the khasra numbers of the land in question. So as to who is the owner of the land pertaining to other the khasra numbers also has not been explained by the petitioner either in his pleadings or at the time of hearing.

On the contrary, the record shows that the application moved by respondent No.3 had been routed through virtually all the concerned Revenue Authorities who at no point of time had ever questioned his identity. Rather the case of respondent No.3 was favourably recommended by the concerned Zildar after he had got the application of respondent No.3 verified from the concerned Patwari. Not only this, the concerned Sub Divisional Officer and the Junior Engineer had also recommended the case of respondent No.3 and thereafter, the Divisional Canal Officer and the Superintending Canal Officer had concurrently found merit in the case of respondent No.3 and allowed the same.

Further, the above allegations raised by the petitioner have been categorically denied by respondent No.3 to which there is no rejoinder.

In view of the above, I am not inclined to interfere with the impugned orders while exercising jurisdiction under Article 226 of the

Constitution of India particularly when the petitioner has shown no prejudice being caused to him by operation of the orders impugned and when he has not questioned the contents of the impugned orders on merits.

Resultantly, the present petition stands dismissed.

No costs.

(DEEPAK SIBAL)
JUDGE

February 18, 2015
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