

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

Civil Writ Petition No.16755 of 2013 (O&M)

Date of Decision: 31.03.2015

Krishan

..... Petitioner

Vs.

The State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Ashok K. Sharma, Advocate for the petitioner.

Mr. Sandeep S. Mann, Sr. DAG, Haryana
for the respondents.

JASWANT SINGH, J. (ORAL)

CM No.4246 of 2015

Prayer is for placing on record the relevant documents i.e. Demarcation
Reports as **Annexures P-11 and P-12.**

Learned Counsel for the applicant/petitioner does not press the
application.

The aforementioned application is dismissed as not pressed.

CWP No.16755 of 2013

The petitioner was aggrieved against the remodeling/realignment of
lined water course passing through his fields from 210//1/1 and 210//10/2 along the
BML Barwala Link Channel and consuming land measuring 1 to 2 Karam besides
bifurcating his land towards the link channel so as to make it un-cultivable.

Pursuant to the directions contained in order dated 01.02.2013, passed
by this Court in CWP No.2196 of 2013, the impugned order dated 02.05.2013
(**Annexure P-7**) was passed by the Superintending Canal Officer, Bhakra Water

Services Circle, Kaithal, rejecting the claim of the petitioner for further realignment.

It is held that the scheme for alignment of the said water course and its lining was published on 9th and 10th August, 1983 by the Divisional Canal Officer, Narwana under Section 18(1) of the Haryana Canal & Drainage Act, 1974 (for short “1974 Act”) during the presence of father of the petitioner, namely, Mewa Singh along with number of shareholders.

On the request of the shareholders, the realignment was finalized, vide decision dated 25.08.1983 with no objection against such sanctioning the alignment.

No appeal was filed against the said decision dated 25.08.1983 of the D.C.O. Even at the time of repair in the year 2006 of the water course in question of outlet No.RD67770/R of the said Barwala Link Channel, no objection by any of the shareholders including the petitioner was raised regarding the existing alignment passing through the land of the petitioner. The existing alignment was passing through the fields of the petitioner since last 30 years and thus it was held that on the principle of prescription by way of easement, the said lined water course could not be shifted from its existing site.

During the course of hearing before this Court, due to the difficulty in cultivating the sandwiched land of the petitioner between the water course and the Barwala Link Channel, the said authorities were directed to file a specific affidavit as to whether Canal Authorities were willing to restore the water course to its original position.

At the time of hearing today, learned Counsel for the State has filed an affidavit dated 31.03.2015 of Shri Krishan Kumar, Executive Engineer, Narwana W/S Division, Narwana, the copy of the same has been furnished to learned Counsel for the petitioner. The same is taken on record.

In the affidavit, it has been stated that a scheme for shifting of the water course towards one side of the holding of the petitioner, as demanded, was prepared and decided. Accordingly, the order dated 04.03.2015 (**Annexure R-1**) was passed under Section 18(2) of 1974 Act, and as per report dated 30.03.2015 (**Annexure R-2**), the work of shifting of the location has been completed at the Site as per specifications. It is thus submitted that the grievance of the petitioner has been redressed.

In view of the affidavit filed by learned State Counsel, learned Counsel for the petitioner concedes that the present writ petition has become infructuous.

Accordingly, the present writ petition stands dismissed as infructuous.

March 31, 2015
Gagan

(JASWANT SINGH)
JUDGE