

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.15638 of 2014 (O & M)
Date of decision:22.01.2015

Hawa Singh

...Petitioner

Versus

Chief Canal Officer/LCU, Haryana Irrigation Department, Panchkula and
ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Ms. Rupinder K. Thind, Advocate,
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Rajan Gupta, J. (oral)

Petitioner is aggrieved by order dated 30.06.2014,
Annexure P-10, passed by Chief Canal Officer, Panchkula. Operative part
whereof reads as under:-

“Arguments of the appellants as well as of the respondents made before me were considered. Khaka Plan, the decision of SCO/YWS Circle, Rohtak dated 07.11.2013 and all of the relevant date of the case placed before the court were examined and it is observed that the appellant Sh. Hawa Singh S/o Sh. Fullu has demanded watercourse AB for the canal irrigation of his fields on compensation basis whereas Sh. Rohtash S/o Sh. Deepu the respondent who is a co-sharer in a small joint land holding through which the watercourse has been demanded submits that they are ready to excavate watercourse AB on the basis of exchange of land with the appellant as the land of the appellant as well as respondent is adjacent and can be easily exchanged. The Hon'ble Punjab & Haryana High Court vide order dated 24.01.2013 in LPA No.1148 of

2012 Hawa Singh V/s Chief Canal Officer, LCU Haryana & others has clarified that the Canal Authorities were required, not merely to accept the appellant's prayer for providing a watercourse but also to consider the respondent's plea that in case a watercourse is excavated through his land, he will not be left with any land. So I find no illegality in the order dated 07.11.2013 passed by the SCO/YWS Circle, Rohtak regarding sanction of watercourse AB on the basis of exchange of land with the appellant. Hence, the same is up-held the appeal of the appellant is dismissed. The objection of the appellant regarding contradictory orders by the CCO is false.

All concerned shareholders be informed accordingly under rules."

Learned counsel has assailed the order primarily on the ground that the authority could only have granted monetary compensation to the private respondent in lieu of sanction of watercourse AB. According to her, there is no provision under the Haryana Canal and Drainage Act, 1974, to direct exchange of land. For this purpose, she refers to Section 21 of the aforesaid Act. She submits that the order is unsustainable. Same may be set aside and remitted to the Canal Authority for a decision afresh.

This prayer is not opposed by learned State counsel.

In view of above, order dated 30.06.2014, Annexure P-10, passed by Chief Canal Officer, Panchkula, is hereby set aside. Matter is remitted to the same authority for a decision afresh after affording opportunity of hearing to the parties.

This petition is allowed in these terms.

(RAJAN GUPTA)
JUDGE

22.01.2015
sukhpreet