

CWP No.25871-2015

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

CWP No.25871-2015

Date of Decision:10.12.2015

Randhir Singh Sodhi

... Petitioner(s)

Versus

Superintending Canal Officer, Ferozepur Canal Circle and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the 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 ?

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

Paramjeet Singh, J.

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for setting aside the order dated 12.03.2015 (Annexure P-3) passed by respondent No.1 -Superintending Canal Officer whereby appeal filed by respondent No.3 has been allowed and the communication dated 6/7.10.2015 (Annexure P-6) whereby review application filed by the petitioner has been consigned to the office.

Brief facts of the present case are to the effect that respondent No.3 moved application to the Deputy Collector (Eastern) under Section 68 of the Northern India Canal and Drainage Act 8 of 1873 (in short, 'the 1873 Act') for fixing the turn of water to their land. The Deputy

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Collector vide order dated 13.06.2013 allowed the said application, but it was mentioned that since there is no watercourse, respondent No.3 and other persons would make arrangement of watercourse and till then turn of water will remain as existed earlier. Against that, respondent No.3 filed appeal before respondent No.2-Divisional Canal Officer, who vide order dated 06.08.2013 came to the conclusion that firstly respondent No.3 has to make the arrangement for watercourse, then turn of water can be fixed and upheld the order of the Deputy Collector and dismissed the appeal. Thereafter, respondent No.3 filed appeal before respondent No.1, who vide order dated 27.01.2014 set aside the orders dated 13.06.2013 and 06.08.2013 and remanded the case to the Deputy Collector for providing the turn of water to the land of respondent No.3 as per the civil record. However, Deputy Collector vide order dated 19.02.2014 again came to the conclusion that till respondent No.3 could make arrangement for watercourse, his turn cannot be fixed. Thereafter, respondent No.3 filed application before respondent No.2 that watercourse be sanctioned for value out of the land of the petitioner. Vide order dated 23.09.2014, respondent No.2 after getting reports from the concerned officials rejected the scheme for sanctioning the watercourse from Point A to B for value on the ground that dispute will arise between the parties and watercourse can be provided with the consent of the co-sharers. Against that, respondent No.3 filed appeal before before respondent No.1, who vide impugned order dated 12.03.2015 (Annexure P-3) accepted the appeal and scheme for

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sanctioning of one karam wide watercourse from Point A to B was approved on payment of compensation. Thereafter, compensation was assessed by respondent No.2-Divisional Canal Officer and the same is stated to have been deposited by respondent No.3. The petitioner preferred review application against the order dated 12.03.2015 (Annexure P-3) which has been consigned to the record vide communication dated 06/07.10.2015 (Annexure P-6). Hence, this writ petition.

I have heard learned counsel for the petitioner and perused the record.

Admittedly, respondent No.3 has purchased the land from the father of the petitioner out of joint *tak* which is now with the petitioner. Earlier, the land purchased by respondent No.3 was being irrigated through the watercourse coming upto the land of the petitioner. Subsequently, the petitioner appeared to have created a hindrance when respondent No.3 got his turn of water separated. Although, the Deputy Collector exercising the powers under Section 68 of the 1873 Act sanctioned the turn of water for respondent No.3 but with a rider that it will remain same till respondent No.3 could make arrangement for watercourse. The Divisional Canal Officer can frame a scheme for providing watercourse if the same is not available to a shareholder in the *Chak*, subject to payment of compensation as can be assessed under Section 30-D of the 1973 Act. Respondent No.2 rejected the scheme only on the ground that there will be a dispute among the co-sharers in

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case watercourse is sanctioned as sought by respondent No.3 but respondent No.1-Superintending Canal Officer, vide impugned order dated 12.03.2015 (Annexure P-3) has rightly allowed the same holding that land which already falls in the cultural command area and was also earlier being irrigated by the seller who happened to be the father of the petitioner, is required to be provided watercourse for irrigation of land. As per the provisions of 1873 Act, watercourse can be provided by the authorities on payment of compensation. This Court has also perused the record and come to the conclusion that area of respondent No.3 falls within the cultural command area and water is lifeline for farmers and watercourse is essential for irrigation. In the opinion of this Court, respondent No.1 has rightly sanctioned the scheme providing watercourse in accordance with law. Not only this, after sanctioning of the scheme, respondent No.3 has already deposited the compensation as assessed by respondent No.2-Divisional Canal Officer for carving out a new watercourse by way of acquisition of land, vide order dated 20-08.2015 (Annexure P-5).

In view of above, I do not find any illegality or perversity in the impugned orders.

Dismissed in limine.

10.12.2015

parveen kumar

(Paramjeet Singh)
Judge