

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.4624 of 2014 (O & M)
Date of decision:27.01.2015

Mohar Singh

...Petitioner

Versus

The Sub-Divisional Canal Officer, Sirsa and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Ashok Verma, Advocate, for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Mr. Sandeep Goyat, Advocate, for respondent No.4.

Rajan Gupta, J. (oral)

Petitioner in the present petition has impugned order, Annexure P-8, dated 24.01.2014 passed by Superintending Canal Officer-respondent No.3. Operative part whereof reads as under:-

“The arguments put forth by both the sides were heard at length. The case file has been examined care fully. From the perusal of the order of both the lower authorities and record available in the case file, it is clear that branch water course ABC was running for the irrigation of the land of the respondent since long. From the latest site report received from the Divisional Canal Officer, Nehrana it is evident that the petitioner has further demolished some other portion of the branch water course ABC after passing of the order by the Divisional Canal Officer, Nehrana dated 24.12.2013 and the temporary room on the alleged alignment of the branch water course ABC has been constructed after filing of the application before the Sub Divisional Canal Officer, Baruwali.

In view of above discussion, the plea of the respondent appears to be more convincing and is justified. There is no other alternate water course

available for the irrigation of the fields of the respondents. Therefore, restoration of the complete alignment of the branch water course marked "ABC" on the khaka plan is ordered to be restored. The temporary room/structure constructed in violation of the orders of the lower authorities and after filing the application before the Sub Divisional Canal Officer Baruwali, be also removed to facilitate restoration of water course if necessary in the interest of irrigation of the fields of the respondents. The revision petition is disposed off accordingly U/S 20(3) of the Haryana Canal & Drainage Act, 29 of 1974.

Limited plea of the petitioner is that in case water course in question has to be restored, adequate compensation is required to be paid to petitioner under Section 17 of the Haryana Canal and Drainage Act, 1974. However, this issue has not at all been considered by the authority. According to him, the order needs to be set aside and matter be remitted to the same authority for a decision afresh.

Prayer is not opposed by learned counsel representing private respondents.

In view of the above, orders, Annexure P-6 to P-8 are hereby set aside and matter is remitted to the Divisonal Canal Officer, Nehrana-respondent No.2, for decision afresh after hearing the parties.

Allowed in these terms.

27.01.2015
sukhpreet

(RAJAN GUPTA)
JUDGE