

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

LPA No.491 of 2015 (O&M)
Date of Decision: 07.04.2015

Baldev Singh & Ors.

... Appellants

VS.

Superintending Canal Officer, Patiala & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE P.B. BAJANTHRI

Present: Mr. Parveen Kumar Garg, Advocate for the appellant

Mr. Aman Bahri, Addl. AG Punjab

Mr. Vijay Sharma, Advocate for respondents No.3&4

SURYA KANT, J. (Oral)

(1) This Letters Patent Appeal impugns the order dated 15.01.2015 whereby learned Single Judge has allowed the writ petition filed by respondents No.3&4 with cost of ₹5000 and has consequently set aside the orders passed by the Canal Authorities *re:* restoration of the water course in dispute.

(2) Learned counsel for the appellants, Mr. Pawan Kumar Garg, at the outset, submits that as per the assurance he gave to the Court on the previous date, Mr. Gurjinder Singh Chahal, learned Advocate representing the appellants before the learned Single Judge is present in Court.

(3) Mr. Gurjinder Singh Chahal has expressed regrets for the incident which happened at the time of hearing of writ petition before the learned Single Judge on 15.01.2015. He assures that no

such incident shall occur on his part in future. We appreciate the gesture shown by Mr. Chahal.

(4) Adverting to the merits of the case, the moot point that arises for consideration is whether or not the water course in dispute was duly sanctioned by the Canal Authorities?

(5) Since in deference to our order dated 30.03.2015, the second respondent is present in Court and on his instructions, it is stated by Mr. Aman Bahri, learned Additional Advocate General Punjab that the water course was a sanctioned one, we are of the considered view that the matter requires afresh adjudication by learned Single Judge. While we grant, one more opportunity to respondents No.1&2 to file their additional affidavit along with relevant record to prove that the water course was duly sanctioned, respondents No.3&4 shall also be at liberty to counter such claim of the official respondents. Rest of the issues raised by the parties would also be gone into by learned Single Judge on merits. Thus all other contentions are left open.

(6) As a sequel thereto, the appeal is allowed; the order dated 15.01.2015 passed by the learned Single Judge is set aside and the matter is remitted to learned Single Judge for afresh adjudication on merits and in view of the observations made above. Needless to say that the High Court Bar Association or Bar Council shall not be required to take cognizance of any issue.

(7) Parties are directed to appear before the learned Single Judge on 21.04.2015.

(Surya Kant)
Judge

07.04.2015
vishal shonkar

(P.B. Bajanthri)
Judge