

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

**CWP No.15217 of 1998
Date of decision: 07.12.2016**

Om Parkash and others

... Petitioners

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: None for the petitioners.

Mr. S.S. Mann, Sr. DAG, Haryana.

None for respondent No.3.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the order dated 25.06.1998 (Annexure P-8) passed by Superintending Canal Officer, Hisar, whereby the request of the petitioners for restoration of watercourse through the fields of respondent No.3, has not been found worth acceptance, petitioners have filed the present writ petition seeking a writ in the nature of certiorari, for quashing the impugned order.

Notice of motion was issued by a Division Bench of this Court vide order dated 27.10.1998. Thereafter, the writ petition was admitted for regular hearing vide order dated 18.08.1999 and at the time of admission of regular hearing, no interim order was passed. That is how, this Court is seized of the matter.

Heard learned counsel for the State.

Learned counsel for the State has rightly pointed out that in view of the nature of controversy involved, coupled with the fact that no interim order was passed by this Court and a time of more than 18 years has passed, nothing survives in the present writ petition to be decided at the hands of this Court, because the parties to the litigation would have reconciled by now.

On merits, learned counsel for the State refers to the legally sustainable observations made by Superintending Canal Officer, Hisar, at page 41 of the paper book. Operative part of the impugned order dated 25.06.1998 (Annexure P-8) passed by Superintending Canal Officer, reads as under: -

“Revenue Missal with relevant record, Khakha plan, remand direction of Hon'ble Pb. & Hy. High Court vide CWP No.4574 of 1996, pleading of the counsels for the parties have been perused and considered in detail. After hearing the arguments of both the counsels and perusal of the record before the Court, the Divisional Canal Officer Tohana Lining Divn. 3, MITC, Fatehabad while deciding of w/c of o/let has held in his decision No.650-54/R dt. 28.7.81 that the w/c on the northern side of Sq. Killa No.455-456/1 to 5 and 457/2 to 5 was left in consolidation. The question of restoration of w/c from the field of Sh. Hazari petitioner in Killa No.430/25 and 431/21 on southern side does not arise when the land for such watercourse has been earmarked/left in consolidation. The watercourse should be run straight on north side of Square No.455, 456 and 457.

The land for watercourse in northern side of Sq. Killa

No.455/1-2-3-4-5, Sq. No.456/1-2-3-4-5 and 457/2-3-4-5 has been left in consolidation & no land has been earmarked in consolidation in killa No.430/25 & 431/21. Therefore there is no logic nor any justice for excavation of w/c through the land of petitioner Sh. Hazari. Secondly in the interest of irrigation as well as of the irrigators, the w/c should run in straight line without any bend through extreme ends of Sq. 455, 456 & 457 on North side. Hence the decision of DCO is set aside by accepting revision petition. Decision be conveyed to all concerned.”

A bare reading of the abovesaid impugned order would show that the plea raised by the petitioners was rightly not found genuine, because they were seeking the restoration of watercourse through the fields of respondent No.3, in spite of the fact that no such watercourse was earmarked during consolidation proceedings. It was further held that the watercourse should run straight on the north side of rectangle Nos.455, 456 and 457, because it was the earmarked watercourse during the consolidation proceedings. Further, had the unjustified demand raised by the petitioners been accepted, the watercourse would have bends, thereby causing loss of water and would have served no purpose, besides being contrary to the principle of better irrigation. Having said that, this Court feels no hesitation to conclude that since Superintending Canal Officer, Hisar has rightly passed the impugned order in the interest of better irrigation, the same deserves to be upheld.

Neither the impugned order has been found suffering from any patent illegality or perversity nor any prejudice has been caused to the petitioner, which may warrant interference at the hands of this Court, while

exercising its writ jurisdiction under Articles 226/227 of the Constitution of India.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present writ petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

07.12.2016
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No