

In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 6504 of 1999
Date of Decision: May 12, 2016

Nathu Ram and others

... Petitioners

Versus

The Chief Canal Officer and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

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

Mr. Rahul Mohan, DAG, Haryana.

Mr. R.S.Mamli, Advocate,
for respondent No.4.

Paramjeet Singh Dhaliwal, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing the order dated 29.04.1997 (Annexure P/2) passed by respondent No. 3 – Divisional Canal Officer, Hisar Water Services Division, Hisar, order dated 25.07.1997 (Annexure P/3) passed by respondent No.2 – Superintending Canal Officer, Bhakra Water Services Circle No.1, Hisar and order dated 28.01.1999 (Annexure P/4) passed by respondent no.1 – Chief Canal Officer/BWS-U, Haryana.

Brief facts of the case are that the petitioners and respondents no. 4 and 5 are landowners. The area of respondent no.4 falls on the chak outlet RD No. 101-R on the Dewasar Feeder and area of the petitioners falls

on the chak outlet No. RD-95-R on the Dewasar Feeder. In the year 1973, the petitioners and the private respondents were irrigating land from their respective feeders. Thereafter, respondent No.4 – Ranbir Singh moved an application for providing watercourse from outlet RD No.95000-R, as a result of which, the Divisional Canal Officer published the scheme under the provisions of Haryana Canal and Drainage Act and thereafter ordered as under vide order dated 29.04.1997 (Annexure P/2):-

“In view of the above demand of Sh. Ranbir Singh applicant regarding sanction of watercourse namely ABCDEFGH is considered and found genuine, hence accepted. The objection of Sh. Nathu Ram is not genuine. Therefore, watercourse ABCDEFGH as shown on the khaka plan and running at site in killa no. as under:-

AB Rect. 64/4 killa cut.

BC Rect. 64/4-7 between killa.

CD Rect. 64/8-13/1 on eastern killa line

DE Rect. 64/13/1 on southern killa line.

EFG Rect. 64/13/2-18/2-23/1, Rect. 73/3/1 on eastern killa line.

GH Rect. 73/3/1-2/2 along katcha path is hereby sanctioned at the cost of applicant Sh. Ranbir Singh to irrigate his field and in the interest of better irrigation. Sh. Ranbir Singh s/o Sh. Surat Singh should pay the cost of land for watercourse as per rules.”

Said order of the Divisional Canal Officer has been affirmed by the Superintending Canal Officer, as well as, Chief Canal Officer. Hence, this writ petition.

During the course of arguments, learned counsel for the petitioners submits that due to carving out of watercourse in his land in a zig zag manner, his land has been bifurcated. Due to bifurcation, it would be

difficult for the petitioners to irrigate their fields on both sides. Otherwise also, there will be damage to the crop of the petitioners. Learned counsel has offered that petitioners are ready to give watercourse along side Killa No. 64//7 on the southern side from point X (marked by this Court in site plan, Annexure P/5) and onwards in their land connecting with watercourse DEFGY (Y marked by this Court in Annexure P/5). However, respondents no. 4 and 5 shall connect the watercourse through their own land along side Killa No. 63//10 and 64//6 on northern side and along the western side of killa No. 64//6 upto point 'X'.

This proposal is acceptable to learned counsel for respondent No.4 and respondent No.4 – Ranbir Singh, who is present in Court.

In view of the consent given by the petitioners and accepted by respondent no. 4, impugned order dated 29.04.1997 (Annexure P/2) of the Divisional Canal Officer is modified to the extent mentioned above. Watercourse shall be carved out as 'XDEFGY' through the land of the petitioners as marked in Annexure P/5. With the providing of watercourse 'XDEFGY' the bifurcation of the land of the petitioners will be saved and it will be on one side of their land. It is made clear that usual compensation shall be paid to the petitioners by the beneficiaries including respondents no. 4 and 5. If the compensation has already been paid by the private respondents, the watercourse shall be forthwith carved out. The Divisional Canal Officer is directed to inspect the spot. If there is any deficiency of compensation to be paid by the private respondents, the same shall be deposited immediately. Furthermore, the fresh calculations shall be carried out since there is modification with regard to the land to be used for watercourse and if excess compensation has been paid by the private

respondents, the same shall be refunded to them. Needful shall be done within two months from the date of receipt of certified copy of this order.

Disposed of in above terms.

May 12, 2016
vkd

[Paramjeet Singh Dhaliwal]
Judge