

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CWP No.13751 of 2016
Date of decision:15.7.2016**

Dhani Ram

...Petitioner

Versus

Chief Canal Officer/LCU and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.Surinder Gandhi. Advocate for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

Instant writ petition is directed against the order dated 28.1.2016 passed by the Chief Canal Officer, Haryana, whereby he provided the facility of irrigation to respondent No.6, without causing any kind of prejudice to the petitioner.

Learned counsel for the petitioner submits that earlier the petitioner had provided watercourse 'AB' from the northern side of Killa No.117/1 to respondent No.6, although it was not a sanctioned watercourse. Thereafter, petitioner stopped the facility of irrigation to respondent No.6 through watercourse 'AB', because it was not a sanctioned one, however, petitioner was providing watercourse 'CD' to enable respondent No.6 to irrigate his fields. Respondent No.6 approached the canal authorities for sanctioning the watercourse 'AB' and that is what has been done by the canal authorities by passing the impugned order. He further submits that since respondent No.6 was getting water through watercourse 'CD', there was no necessity for the respondent authorities to pass the impugned orders,

sanctioning watercourse 'AB' for respondent No.6. He prays for setting aside the impugned order, by allowing the instant writ petition.

Having heard the learned counsel for the petitioner at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that the impugned order dated 28.1.2016 passed by the Chief Canal Officer, Haryana has not been found suffering from any patent illegality or perversity and the same deserves to be upheld. The present writ petition is misconceived and the same is liable to be dismissed.

It has gone undisputed before this Court that respondent No.6 was irrigating his land through the watercourse 'AB' provided by the petitioner, in spite of the fact that it was not a sanctioned watercourse. Length of watercourse 'AB' is only one acre. Watercourse 'AB' is situated on northern side of Killa No.117/1 owned by the petitioner and watercourse 'CD' is situated on southern side of same Killa Number. Impugned orders have changed nothing but only sanctioned the watercourse 'AB', so that respondent No.6 may not remain at the mercy of petitioner for all times. No reason or justification could be given on behalf of the petitioner as to why he denied the facility of irrigation to respondent No.6 through watercourse 'AB' particularly when he was availing the said facility earlier. Length of watercourse 'AB' and the length of watercourse 'CD' is exactly the same. No prejudice of any kind, whatsoever, has been caused to the petitioner by passing the impugned order. Operative part of the impugned order passed by Chief Canal Officer deserves to be noticed here and the same reads as under:-

“Revenue Missal, site sketch and arguments of the appellant and respondent heard properly and considered. As

per statement of Sh.Dhaniram s/o Sh.Juglal respondent that a watercourse "CD" from killa No.117/10 is available and appellant is doing irrigation from this watercourse. On the other side Sh.Sada Ram S/o Sh.Hari Ram appellant stated that this watercourse does not touch his holding. Divisional Canal Officer Sampla was asked vide this office No.653/HRC dated 24.12.2015 to explain the position after site inspection that watercourse "CD" as marked on the khaka plan touches the holding of the appellant or not. Divisional Canal Officer Sampla replied vide his letter No.464/HRC dated 23.12.2015 that watercourse "CD" from the northern side of killa No.117/10 does not touch the holding of Sh.Sada Ram appellant.

In view of report of Divisional Canal Officer Sampla there is no alternate for the irrigation of the fields of appellant, the demand of applicant for watercourse "AB" of one karam width from the northern side of killa No.117/1 on compensation basis for the irrigation of the appellants field is genuine. Hence appeal of appellant is accepted and decision of Superintending Canal Officer YWS Circle Rohtak dated 28.05.2015 is set aside."

A bare reading of the above-said order would show that petitioner has tried to make a factually wrong statement before the canal authorities. Thereafter the Chief Canal Officer directed the Divisional Canal Officer, Sampla, to inspect the site and verify whether watercourse 'CD' was touching the fields of respondent No.6. The statement made by the petitioner before the Chief Canal Officer was found to be incorrect. After considering all the relevant aspects of the matter, impugned order was passed by the Chief Canal Officer, sanctioning the watercourse 'AB' from the northern side of Killa No.117/1 and that too on compensation basis, because the grievance raised by respondent No.6 was found to be genuine.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the impugned order passed by the Chief Canal Officer, Haryana (Annexure P-7) has been found to be based on true fact situation as well as in accordance with law and the same deserves to be upheld. The instant 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 above-said observations made, the present writ petition stands dismissed, however, with no order as to costs.

15.7.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE