

Civil Writ Petition No. 1759 of 2014

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

**Civil Writ Petition No. 1759 of 2014
Date of Decision: 16.11.2016**

Sant Lal and another

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. R.S. Mamli, Advocate
for the petitioners.

Mr. R.K. Doon, AAG, Haryana.

Mr. Ajit Sihag, Advocate
for respondents No. 5 to 9.

RAMESHWAR SINGH MALIK J. (ORAL)

Present writ petition is directed against the order dated 28.1.2013 (Annexure P-5) passed by Divisional Canal Officer, Hisar, order dated 28.12.2011 (Annexure P-4), passed by Chief Canal Officer and order dated 10.6.2013 (Annexure P-6) again passed by Chief Canal Officer, whereby application of the private respondents, seeking transfer of their land from outlet RD 22000-L Dhansu Minor to outlet RD 23000-Tail Dhansu Minor, was allowed.

Notice of motion was issued and in compliance thereof, reply on behalf of respondents No. 2 to 4 was filed.

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Heard learned counsel for the parties.

Succinctly put, facts necessary for disposal of the present writ petition, are that when private respondents were facing difficulty in irrigating their land due to insufficiency of canal water, they moved an application before the competent authority, seeking transfer of their land from outlet RD 22000-L Dhansu Minor to RD 23000-Tail Dhansu Minor. After receiving the said application on behalf private respondents, a scheme was prepared and published under the relevant provisions of law. Notices were issued to the would be affected shareholders. Both the parties appeared before the Divisional Canal Officer, Hisar, on 14.7.2009. The scheme was explained to all the shareholders, who attended the court proceedings, in response to the notices issued to them.

After complying with the principles of natural justice and examining all the relevant factors, including the technical aspects, competent authority found the grievance raised by private respondents to be genuine one and their application for transfer of land was allowed. Accordingly, total land measuring 217 kanal was ordered to be transferred from outlet RD 22000-L Dhansu Minor to outlet RD 23000-Tail Dhansu Minor, vide order dated 21.7.2009 (Annexure P-3), subject to confirmation by the Superintending Canal Officer. It is also pertinent to note here that, while passing the order (Annexure P-3), earlier orders passed by the Canal Authorities, i.e. orders Annexures P-1 and P-2, were not found to be good and sufficient reasons to reject the transfer application of the private respondents.

The abovesaid order dated 21.7.2009 (Annexure P-3) was approved by Superintending Canal Officer, vide his order dated 20.11.2009,

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which has not even been challenged by the petitioners, for the reasons best known to them. Petitioners approached the Chief Canal Officer by way of an appeal, which came to be dismissed vide order dated 28.12.2011 (Annexure P-4). The relevant operative part of the order passed by the Chief Canal Officer, which is available at page 33 of the paper book, reads as under:-

“On perusal of revenue missal, record and statements of appellant and respondents is revealed that this is a case of consolidation of land holdings. Hence the appeal is rejected in the interest of better irrigation and consolidation of land holdings. More so the owner of the area in question also wants to transfer their area and there is no loss of irrigation to the appellants, therefore, the decision of SCO BWS-I Hisar dated 20.11.2009 is upheld.”

Petitioners again tried to rake up the issue by approaching the Divisional Canal Officer, purportedly against the order dated 27.4.2012 passed by the Deputy Collector, Hisar W/S Division, Hisar, whereby warabandi on outlet RD 23000-Tail Dhansu Minor was sanctioned. Said appeal of the petitioners also came to be dismissed by the Divisional Canal Officer, vide order dated 28.1.2013 (Annexure P-5).

Petitioners had a second thought at this stage of the litigation. They filed application dated 20.5.2013 before the Chief Canal Officer, Haryana, seeking review of his abovesaid order dated 28.11.2011, which had already been acted upon and the order for transfer of land, having become final, even the warabandi (turn of water), had also been sanctioned. This review application moved by the petitioner was dismissed by the Chief

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Canal Officer, vide impugned order dated 10.6.2013 (Annexure P-6).

A bare reading of the abovesaid impugned orders would make it crystal clear that the petitioners had been glaringly misusing the process of law. The respondent canal authorities, being expert in their line, have discussed each and every relevant aspect of the matter, while passing their respective impugned orders and none of the impugned order has been found suffering from any patent illegality or perversity. Thus, the impugned orders deserve to be upheld.

Another strong reason for dismissing the present writ petition is that, turn of water (Warabandi) has been sanctioned by the competent authority for all the shareholders, including the petitioners, as well as private respondents, on the new outlet, i.e. outlet RD 23000-Tail Dhansu Minor, after the transfer of land from outlet RD 22000-L Dhansu Minor to outlet RD 23000-Tail Dhansu Minor had attained finality between the parties. This turn of water came to be sanctioned as far back as on 27.4.2012 by the Deputy Collector, Hisar W/S Division, Hisar, which is not even under challenge before this Court.

The abovesaid undisputed facts would show that parties to the present avoidable litigation, are irrigating their respective fields, through an arrangement which was sanctioned between them on 27.4.2012. Petitioners have not made any effort to show that after finalisation of the said arrangement, they, as a matter of fact, had faced any difficulty in irrigating their fields, during the last more than 4½ years. Having said that, this Court feels no hesitation to conclude that the respondent canal authorities committed no error of law, while passing their respective impugned orders and the same deserve to be upheld, for this reason also.

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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 instant 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

16.11.2016
Ak Sharma

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No