

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

C.W.P. No.21822 of 2015 (O&M)
DATE OF DECISION : 18.1.2016

Chattar Singh and others

PETITIONERS

VERSUS

The Chief Canal Officer and others

RESPONDENTS

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

1. Whether reporters of Local Newspapers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present:- Shri Mohit Jaggi, Advocate for the petitioners.

Shri Rajneesh Chadwal, D.A.G. Haryana.

Shri R.S.Tacoria, Advocate.

MAHESH GROVER, J.

The petitioners impugn the order dated 25.5.2015 (Annexure P-8) by which their application for re-alignment of the water-course has been declined. The petitioner had earlier filed C.W.P. No.10518 of 1995 impugning the orders dated 24.8.1994 and 23.6.1995 alleging that the water-course as depicted at points A,B in the site plan Annexure P-2 on the western side of Killa No.32/19 be shifted elsewhere. The Canal authorities disagreed with him and in the writ petition, the orders of the Canal authorities were upheld. The petitioners then went up in

appeal and the L.P.A. Bench disposed of the same by giving liberty to the petitioners to make an application for shifting of the water course before the appropriate authorities. The impugned order is a result of this where the Divisional Canal Officer has expressed his helplessness in interfering with the application moved by the petitioners on the premise that the matter has been settled by the High Court.

A perusal of the order of the L.P.A. Bench indicates that the order of the learned Single Judge was not interfered with, but a liberty was granted to the petitioners to move an appropriate application for shifting of the water course within the same killa number. The plea taken up by the petitioners that there is no tubewell or tree existing at that point was never raised by the petitioners earlier before the Writ Court regarding the order of the Canal authorities shifting the water course from Point A to Point B.

If that be so, the petitioners are clearly precluded from raising such a plea now. The impugned order though cryptic, cannot be interfered with for the simple reason that the canal authorities have no justification or authority to answer the prayer of the petitioners for shifting of the water course when a Co-ordinate Bench of this Court has affirmed the order of the Canal authorities which the petitioners themselves had impugned. The L.P.A. Bench made no comment on the merits of the order under appeal.

Since the controversy is now being raked up afresh on the plea which was already available to the petitioners and the same not having been raised earlier, the petitioners are precluded from raising the same at this stage of the proceedings.

For the aforesaid reasons, the instant petitions is dismissed.

(MAHESH GROVER)
JUDGE

January 18, 2016