

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

CWP No.21502 of 2016
Date of Decision: 17.10.2016

Ranjit Singh and another

. . . Petitioners

Versus

State of Haryana and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Rajender Helwa, Advocate
for the petitioners.

Rameshwar Singh Malik, J. (Oral)

Feeling aggrieved against the impugned order dated 01.09.2016 (Annexure P-7) [incorrectly typed as Annexure P-9 in the prayer clause] passed by the Superintending Canal Officer, whereby the order dated 11.07.2016 (Annexure P-4) [wrongly typed as Annexure P-6 in the prayer clause] passed by the Divisional Canal Officer was upheld, directing restoration of watercourse up to the fields of respondent No.5, petitioners have approached this Court by way of present writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of Certiorari, for quashing the impugned orders.

Heard learned counsel for the petitioners.

After perusal of the record, including the impugned orders as well as site plan (Annexure P-9) with the assistance of learned counsel for the petitioners, this Court has found that no prejudice is going to be caused

to the petitioners by passing of the impugned orders. It is so said because as per site plan (Annexure P-9), watercourse in question starts from point 'A'. It goes from point 'A' to point 'B', from point 'B' to 'D' and then from point 'D' to 'D1'. Watercourse at point 'D1' touches the central point of Killa Nos.1236-1235 on one side and Killa Nos.1237 and 1238 on other side, all these four killas being the ownership of the petitioners. From point 'D1' the watercourse, as per the impugned orders and also confirmed by the learned counsel for the petitioners, would go downwards up to Killa No.1205 on one side and Killa No.1245 on the other side. Four acres land bearing Killa Nos.1192 and 1195 on one side and Killa Nos. 1246 and 1259 on the other side are owned by respondent No.5 namely Mahinder Singh son of Issar Singh.

At this stage, learned counsel for the petitioners sought to clarify that Killa Nos.1195 and 1196 may not be ownership of respondent No.5, however, he confirmed that Killa Nos.1246 and 1259 are the ownership of respondent No.5. Be that as it may, no prejudice of any kind, whatsoever, is going to be caused to the petitioners, while providing facility of canal irrigation to respondent No.5 by restoring watercourse from point 'D1' up to Killa No.1246.

Learned counsel for the petitioners sought to argue that as per more than one reports of canal Patwaris, respondent No.5 was irrigating his land only through tube well water and he may not require another watercourse. However, this contention raised by learned counsel for the petitioners has been found wholly misconceived for the reason that respondent No.5 cannot be denied the facility of canal irrigation only for the reason that he had dug a tube well in his fields. It is the common

knowledge that water level is going down day by day and the tube well water will not be sufficient to irrigate the fields of respondent No.5. This seems to be the reason that he applied for restoration of the watercourse so that he may also avail the facility of canal irrigation.

In fact, the location of above-said fields of the petitioners is such that providing watercourse through exactly on the killa line, which has been sought to be provided to respondent No.5 by way of impugned orders, shall be best suited to the petitioners as well. The canal authorities have recorded that earlier there was a lined watercourse up to one acre from point 'D1' and thereafter it was lined watercourse. Under these peculiar facts and circumstances of the case, none

of the canal authorities committed any error of law, while passing the impugned orders (Annexure P-4 and P-7) and the same deserve to be upheld.

It is the settled proposition of law that the canal authorities are expert in their line. This Court would be slow in interfering in the orders passed by the canal authorities, while exercising its writ jurisdiction, unless the orders passed by the canal authorities are found patently illegal or perverse. No such illegality or perversity has been pointed out in either of the impugned orders. The matter was reconsidered by the Superintending Canal Officer in the appeal. The relevant observations made by the Superintending Canal Officer in operative part of his impugned order, which deserve to be noticed here, read as under:-

"I have very carefully considered the submissions raised by the learned counsels for the parties and also perused the statements and other evidence led on the file of Divisional Canal Officer, Kurukshetra and also considered the findings

recorded by it and there is no ground to interfere with the findings of Divisional Canal Officer, Kurukshetra in which the water course in question was restored in the interest of better irrigation to the fields of respondent Mahinder Singh. I had also carefully gone through the order passed by the Divisional Canal Officer, Water Services Division Kurukshetra dated 11.7.2016 which is well reasoned and detailed order on each and every point, thus the finding of the DCO Kurukshetra was plausible view in as much as it is amply proved on the file that the appellants have dismantled the water course of the respondent with the intention to stop the irrigation through this water course to his fields and it is further held that this water course was already sanctioned on 4.6.1982 by the DCO Kaithal and the said water course was constructed at site and water was running in it, as such it is not possible to accept the appeal of the appellants because it has no merit.

Keeping all the factors in view, it is found that the objections raised by the appellants against the decision of Divisional Canal Officer Water Services Division Kurukshetra are not maintainable and therefore the decision dated 11.7.2016 of Divisional Canal Officer Water Services Division Kurukshetra is affirmed and the appeal is hereby dismissed.”

During the course of hearing, when confronted as to what kind of prejudice is going to be caused to the petitioners by passing the impugned orders, learned counsel for the petitioners had no answer and rightly so, it being a matter of record. In the absence of any kind of prejudice having been caused to the petitioners and the entitlement of respondent No.5 for availing the facility of canal irrigation being not in dispute, there is hardly any scope to interfere, at the hands of this Court, while exercising its writ jurisdiction under Articles 226/227 of the Constitution of India.

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 orders have not been found to be suffering from any patent illegality or perversity. 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 above-said observations made, the present writ petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

17.10.2016
mks

Whether Speaking/reasoned : Yes/No

Whether Reportable : Yes/No