

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

CWP No.22411 of 2016

Date of Decision: 27.10.2016

Himmat Singh

. . . Petitioner

Versus

Superintendent Canal Officer and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Surinder Garg, Advocate
for the petitioner.

Rameshwar Singh Malik, J. (Oral)

Feeling aggrieved against the order dated 19.8.2016 passed by the Superintending Canal Officer, Sirhind Canal Circle, Sirhind, Ludhiana-respondent No.8, petitioner has 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 order.

Heard learned counsel for the petitioner.

It has gone undisputed before this Court that the impugned order dated 19.08.2016 (Annexure P-8) has been passed by the Superintending Canal Officer-respondent No.1 in compliance of the order dated 27.08.2010 passed by this Court in Civil Writ Petition No.5385 of

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2008, filed by the petitioner himself. To further appreciate the unwarranted controversy sought to be raised by the petitioner, at this stage, it would be appropriate to refer to the order dated 27.08.2010, passed by this Court, and the same reads as under:-

“Counsel for the petitioner submits on instructions from Himmat Singh, petitioner, who is present in court that he does not challenge the correctness of the impugned orders but prays that respondent no.3 should be directed to straighten the watercourse from the point ‘B’.

Counsel for respondent no.3 has no objection to the request and states that respondent no.3 would approach the canal authorities for demarcating a straight watercourse from the point ‘B’ so as to reach his fields through Khasra No.3560.

In view of the statements made by counsel for the parties, the writ petition is disposed of with a direction to respondent no.3 to file an application before the Divisional Canal Officer, Faridkot, praying that the watercourse is straightened from the point ‘B’ to reach the field of respondent no.3 through Khasra No.3560. In case such an application is filed, it shall be considered and decided within three months.

The operative part of the above-said order passed by this Court would show that watercourse in question was directed to be straightened from point ‘B’, so that it may reach the fields of respondent No.3 through **Khasra No.3560**. It is also a matter of record that the petitioner is claiming ownership of khasra number of 3560, shown in yellow colour in the site plan (Annexure P-4). Straightening of this watercourse from point ‘B’ was sought by the petitioner himself so as to avoid bifurcation of his land from point ‘C’ to ‘E’. Said request made by

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the petitioner was found to be a genuine one and straightening of this watercourse from point 'B' was ordered by this Court, however, through Khasra No.3560 owned by the petitioner.

Neither the petitioner raised this issue on 27.08.2010 before this Court when the above-said order was passed that while putting the watercourse straight from point 'B' through his Khasra No.3560, respondent should be directed to compensate the petitioner nor he filed any LPA against the said order passed by this Court at Annexure P-5.

In view of the above, instant petition is based on an afterthought of the petitioner, whereby he is trying to turn around with a view to change his stand, however, it cannot be permitted. If the petitioner was not fully satisfied with the order passed by this Court, he was at liberty to move an appropriate application seeking clarification or modification in the order, but he did not do so for the reasons best known to him. He also did not challenge the above-said order by way of LPA. Petitioner surrendered to the jurisdiction of the respondent authorities, who were duty bound to pass the impugned order, in strict compliance of the above-said order passed by this Court. Having said that, this Court feels no hesitation to conclude that the Superintending Canal Officer did not commit any error of law, while passing the impugned order and the same deserves to be upheld.

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 instant petition is wholly misconceived, bereft of

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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

27.10.2016
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Whether Speaking/reasoned : Yes
Whether Reportable : No