

CWP-8192-2013

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

CWP-8192-2013

Date of Decision: 31.05.2016

Rajesh Deshwal and others

Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

- 1) Whether Reporters of the local papers 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: Mr. Anil Kumar, Advocate,
for the petitioners.

Mr. Rajneesh Chadwal, DAG, Haryana.

Mr. Ramesh Hooda, Advocate,
for respondent Nos.5 to 13.

Paramjeet Singh Dhaliwal, J.

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing the orders dated 27.07.2012 (Annexure P-1) passed by respondent No.2-Chief Canal Officer, dated 31.01.2012 (Annexure P-2) passed by respondent No.3-Superintending Canal Officer, dated 26.09.2011 (Annexure P-3) passed by respondent No.4-Divisional Canal Officer and dated 22.04.2012 (Annexure P-4) passed by respondent

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No.4-Divisional Canal Officer.

Brief facts relevant for disposal of this writ petition are to the effect that residents of village Subana, Tehsil and District Jhajjar made a request to the canal authorities that a drain to drain out the rain water from their fields which is causing massive damages, be carved out. In pursuance of the said request, respondent Nos.2 and 3 conducted a survey for construction of Subana Link Drain passing through the agricultural land of villages Surehti, Kasni, Samaspur Majra etc. for the purpose of draining of rainy water so that there may not be flood in the area and the canal authorities proposed carving out Subana Link Drain. The scheme was framed for carving out Subana Link Drain. The purpose of carving out drain was to save the water logging and damage to the crops of farmers of village Subana and other villages. Notices to the effected land-owners regarding the proposed scheme were issued and opportunity of hearing was afforded to all concerned and ultimately, the authorities came to the conclusion that the drain should be carved out through the land belonging to villages Surehti, Kasni and Samaspur Majra. Thereafter, some of the residents of village Surehti raised objections, they were also heard. The Divisional Canal Officer after hearing all the effected persons approved acquisition of land for the proposed scheme being technically sound and economical. The Divisional Canal Officer has decided the objections in detail. The residents of village Surehti and Kasni approached the Superintending Canal Officer, who modified the scheme. Some of the effected persons

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further approached the Chief Canal Officer against the order of the Superintending Canal Officer, who further modified the scheme. Hence, this writ petition.

I have heard learned counsel for the parties and perused the record.

During the course of hearing, learned State counsel produced the site plan (Annexure CX) which is taken on record.

The only grievance of the petitioners is that the disputed drain shown in site plan (Annexure CX) is in a zig-zag manner and will affect the land of the petitioners. There will be difficulty in passing over the drain to reach their fields. Learned counsel for the petitioners made reference to the site plan (Annexure CX) to show that the drain in question passes to various villages which will cause hindrance in cultivating their fields.

The proposed drain has been shown with red colour in site plan (Annexure CX). The Superintending Canal Officer approved the alignment as 'QPO' which is shown with dotted lines, however, the Chief Canal Officer set aside the order passed by the Superintending Canal Officer and modified the alignment as 'QSO' as shown in the site plan (Annexure CX) with red line. The Chief Canal Officer approved the drain, as marked with letters 'RQSNMLKJIHGFEDCBA' which is in consonance with the survey conducted by the canal authorities keeping in view the level of the land. The purpose of carving out drain is to prevent flooding and damages to the crops to the fields and residents of

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the village. The canal authorities after carrying out the survey have proposed the drain. They being experts can look into the technical aspects of carving out drains and the court may not in a position to assess all the technical aspects while proposing a drain. Whatever deficiency has been pointed out in the impugned orders passed by the Divisional Canal Officer and the Superintending Canal Officer have been rectified/modified by the Chief Canal Officer. The canal authorities have considered the objections raised by the petitioners and others and they were afforded adequate opportunity of hearing. The objection of the petitioners that the drain has been carved out in a zig-zag manner, is not sustainable as it is for the experts to examine how the water can be drained out effectively from the fields. They have proposed the carving out of the drain after the survey.

Learned counsel for the petitioners has failed to point out any deficiency and illegality in the impugned order passed by the Chief Canal Officer.

In view of above discussion, I do not find any illegality or perversity in the impugned orders as finally passed by the Chief Canal Officer.

Dismissed.

No order as to costs.

31.05.2016
parveen kumar

(Paramjeet Singh Dhaliwal)
Judge