

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

LPA No. 181 of 2016 (O&M)

DATE OF DECISION : 04.02.2016

Randhir Singh Sodhi

.... APPELLANT

Versus

Superintending Canal Officer, Ferozepur Canal Circle, Ferozepur and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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

* * *

SATISH KUMAR MITTAL, J. (Oral)

This intra-court appeal under Clause X of the Letters Patent has been filed against the order dated 10.12.2015 passed by the learned Single Judge, whereby the writ petition (CWP No. 25871 of 2015) filed by the appellant challenging the order dated 12.03.2015 (Annexure P-3) passed by the Superintending Canal Officer, Ferozepur Canal Circle, Ferozepur (respondent No.1 herein), has been dismissed while observing as under :-

“Admittedly, respondent No.3 has purchased the land from the father of the petitioner out of joint tak which is now with the petitioner. Earlier, the land purchased by respondent No.3 was being irrigated through the watercourse coming upto the land of the petitioner. Subsequently, the petitioner appeared

to have created a hindrance when respondent No.3 got his turn of water separated. Although, the Deputy Collector exercising the powers under Section 68 of the 1873 Act sanctioned the turn of water for respondent No.3 but with a rider that it will remain same till respondent No.3 could make arrangement for watercourse. The Divisional Canal Officer can frame a scheme for providing watercourse if the same is not available to a shareholder in the Chak, subject to payment of compensation as can be assessed under Section 30-D of the 1973 Act. Respondent No.2 rejected the scheme only on the ground that there will be a dispute among the co-sharers in case watercourse is sanctioned as sought by respondent No.3 but respondent No.1-Superintending Canal Officer, vide impugned order dated 12.03.2015 (Annexure P-3) has rightly allowed the same holding that land which already falls in the cultural command area and was also earlier being irrigated by the seller who happened to be the father of the petitioner, is required to be provided watercourse for irrigation of land. As per the provisions of 1873 Act, watercourse can be provided by the authorities on payment of compensation. This Court has also perused the record and come to the conclusion that area of respondent No.3 falls within the cultural command area and water is lifeline for farmers and watercourse is essential

for irrigation. In the opinion of this Court, respondent No.1 has rightly sanctioned the scheme providing watercourse in accordance with law. Not only this, after sanctioning of the scheme, respondent No.3 has already deposited the compensation as assessed by respondent No.2-Divisional Canal Officer for carving out a new watercourse by way of acquisition of land, vide order dated 20.08.2015 (Annexure P-5).

On the last date of hearing, when learned counsel for the appellant could neither convince this court regarding his claim nor could point out any illegality in the impugned order passed by the learned Single Judge, he prayed that the appellant will accept the compensation and allow the respondents to dig the watercourse, provided the same is dug after 30.04.2016, because his crops are standing in the field. In this regard, today the appellant has filed an undertaking by way of his affidavit dated 03.02.2016. Same is taken on record. In paragraph 4 of this affidavit, the appellant has undertaken that after 30.04.2016, he will not create any hindrance or obstruction for digging up the watercourse by the canal authorities as well by private respondent No.3 and he will allow the canal authorities to dig up the watercourse after 30.04.2016.

In view of the aforesaid undertaking given by the appellant, it is ordered that the canal authorities shall not dig the watercourse in pursuance of the impugned order till 30.04.2016.

The instant appeal is, accordingly, disposed of with liberty to respondent No.3 to approach this court, if he still has any grievance against the order passed by this court.

(SATISH KUMAR MITTAL)
JUDGE

February 04, 2016
ndj

(HARINDER SINGH SIDHU)
JUDGE