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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-1678-2015

Date of decision : 22.02.2017

Baldev Singh and others

... Petitioner(s)

Versus

Superintendent Canal Officer and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. S.P.S. Tinna, Advocate
for the petitioners.

Ms. Lavanya Paul, AAG, Punjab.

Mr. Sandeep Khunger, Advocate
for respondent No.4.

AMIT RAWAL, J. (ORAL)

The grievance of the petitioners in the present writ petition is against the orders dated 08.02.2011 (Annexure P-2) rendered by the Deputy Collector, dated 18.06.2014 (Annexure P-3) passed by the Divisional Canal Officer/respondent No.2 and as well as the order dated 29.10.2014 (Annexure P-4) passed by the Superintendent Canal Officer/respondent No.1, whereby, the application of the private respondent(s) has been allowed on the premise that since the watercourse had been made permanent/*pucca*, earlier sanctioned *bharai* and *mujrai* was required to be changed. The appeal/revision taken before the authorities, resulting into passing of unreasoned orders.

Mr. S.P.S. Thinna, learned counsel appearing on behalf of the

petitioners has drawn the attention of this Court to the order dated 18.06.2014 (Annexure P-3) passed by the Divisional Canal Officer/respondent No.2 and the order dated 29.10.2014 (Annexure P-4) of the Superintendent Canal Officer. The operative part of the orders reads as under:-

"Order dated 18.06.2014

Investigation done. Record perused. As per the proposal submitted by Zildar Illaqa, the water course to the extent of 916 karams have been made pucca and because of which the earlier sanctioned bharai and mujrai of 0-5/0-3 has been changed to 0-3/0-1. The Deputy Collector, Abohar has passed an order on solid facts and so the demand of the appellant does not seem to be genuine and worth acceptable and so considering the demand of the respondents to be genuine, the appeal of the appellant is set aside under Section 68(5) of the Northern India Canals and Drainage Act, 8 of 1873, amended Act 23 of 1965. Meaning thereby, the order passed by the Deputy Collector, Abohar dated 28.12.2011, is restored.

Order dated 29.10.2014

Investigation done, record perused. Site plan seen. The order passed by the DCO, Abohar was carefully looked into. After carefully examining the case from all the angles, the undersigned has found that the demand of the appellant is not genuine and thus worth acceptable. Because as per the proposal, the bharai and mujrai of pucca water course has been changed from 0-5/0-3 to 0-3/0-1. As the order passed by the D.C.O. Abohar, Canal Division, Abohar, dated 18.06.2014 is based on the solid facts and so the same is hereby restored meaning thereby the appeal is rejected under Section 68 (6) of the Northern India Canals and Drainage Act, 8 of 1873, amended Act 23 of 1965. This order was kept reserved. Hence, the intimation be given to both the sides."

On juxtaposition of the findings given by both the Officers, it appears to be a cut and paste order. It does not deal with the contentions of the learned counsel for the petitioners, much less, the private respondent(s). The authorities under the Act are obliged under the Act to try and deal with the matter in a most reasonable and pragmatic manner, but not in the manner and mode as indicate above. The orders does not confirm with requirement of equity, much less, reference to any submission, thus, are cryptic and sketchy and therefore, are liable to be set aside.

Keeping in view the aforementioned facts and circumstances of the case, I deem it appropriate to remand back the matter to the Superintendent Canal Officer, Ferozepur Canal Circle, Ferozepur, District Ferozepur, for deciding the controversy/revision petition afresh in accordance with law and pass a detailed order as expeditiously as possible preferably within a period of one month from the date of receipt of the certified copy of this order.

The parties through their counsel are directed to appear before the Superintendent Canal Officer, Ferozepur Canal Circle, Ferozepur, District Ferozepur on 07.03.2017.

With the aforesaid observations, the writ petition stands disposed of.

22.02.2017

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**