

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

CWP No.18462 of 2014
Date of decision : 09.05.2017

Partap Singh and others

...Petitioners

Versus

Superintending Canal Officer, Bhiwani and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Arun Nehra, Advocate for the petitioners.

Mr. Indresh Goel, Addl. A.G. Haryana.

Mr. Anil Kumar Jain, Advocate for respondent No.4.

AMIT RAWAL, J. (Oral)

The grievance of the petitioners in the present writ petition is to the order dated 25.04.2012 (Annexure P-4), whereby the order of Sub Divisional Canal Officer dated 03.02.2012 (Annexure P-3) ordering for restoration of the water course from point AB, has been set aside.

Mr. Arun Nehra, learned counsel appearing on behalf of petitioners submits that order of SDCO is perfectly legal and justified. It is in this aspect of the matter, application under Section 24 of 1974 Act was moved which on inspection was found that there was dismantling of the water course. However, DCO and SCO particularly SCO has not assigned any reasoning while dealing with the matter and dismissing the revision petition. Though order of DCO reveals that owing to the bifurcation of land

of the private respondents as undertaking given by them for providing the water course on the boundary wall is, inclined, which is very difficult for irrigating the land. Earlier the SCO had not entertained the revision petition which compelled the petitioner to come before this Court. This Court while setting aside the order in CWP No.849 of 2013 (Annexure P-8) relegated the matter to SCO to decide the matter on merits yet, there is no compliance of the aforementioned order. In this regard, he has drawn the attention of this Court to SCO order, which reads thus:-

“In compliance of the orders passed by the Hon'ble High Court of Punjab & Haryana, Chandigarh in CWP No.849 of 2013 on dated 22.4.2014, both the parties were heard in details. The Divisional Canal Officer, Jui W/S Divn. Bhiwani decision dated 25.4.12 was perused carefully and thoroughly. The revenue missal and khaka plan etc. of the area was also examined carefully.

Decision:- *After perusal of record and other connected relevant papers and after hearing both the parties, I agree with the decision given by Divisional Canal Officer, Jui W/S Division, Bhiwani vide his orders dated 25.4.2012 which is correct and justified under the Canal & Drg. Act 29 of 1974.*

The decision be conveyed to the concerned shareholders.”

The other points in the order passed by SCO has been seriously disputed.

Instead of delving upon merits and demerits of the matter of respective parties which would seriously prejudice their right, I deem it appropriate to set aside impugned order being bereft of reasoning or cogent

and remand the matter to SCO to decide the same in a most objective and pragmatic manner by giving reasons as expeditiously as possible preferably within a period of two months from the date of receipt of certified copy of the order, as number of years had elapsed in this process. In case, the order of the SCO is again found to be wanting reasoning, this Court may not be constrained to take the action in accordance with law.

By setting aside the order Annexure P-9, present writ petition stands disposed off.

Parties through their counsel are directed to appear before SCO on 29.05.2017.

09.05.2017

Pawan

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No