

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.3812 of 2012

Date of Decision: April 27, 2017

Satish Kumar @ Shiv Kumar

...Petitioner

Versus

Divisional Canal Officer, Narwana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.R.N.Lohan, Advocate,
for the petitioner.

Mr.Indresh Goel, Addl.A.G.Haryana,
for the State.

Mr.A.S.Virk, Advocate,
for respondent No.3.

AMIT RAWAL, J. (Oral)

The petitioner is aggrieved of the order dated 14.2.2012 (Annexure P-4) passed by the Divisional Canal Officer-respondent No.1, whereby the second appeal preferred by the private respondent against the order of the Sub Divisional Canal Officer (Annexure P-2) has been allowed and ordered for restoration of the watercourse.

Mr.R.N.Lohan, learned counsel representing the petitioner submits that the second appeal was not maintainable as the first appeal preferred against the order Annexure P-2 of the Sub Divisional Canal Officer declining the application for restoration of the watercourse was withdrawn. He further submits that the respondents have failed to prove existence of the watercourse, much less ingredients of sub-section (15) of

Section 2 of the Haryana Canal and Drainage Act, 1974. There was no compromise on record as reflected in the order of the Divisional Canal Officer. Granting of watercourse on one or two occasions would not be a ground for restoration of the watercourse and, thus, urges this Court for setting-aside of the order by allowing the writ petition.

Per contra, Mr.A.S.Virk, learned counsel for respondent No.3 and Mr.Indresh Goel, learned Addl.A.G.Haryana representing the State submit that the petitioner has not been fair to this Court as the compromise Annexure R-1 has been attached alongwith the reply and there is no rebuttal to that. The aforementioned compromise has been signed by Satish Kumar petitioner and both the parties have mutually agreed that the watercourse will remain to continue, therefore the petitioner is estopped from filing the writ petition.

I have heard the learned counsel for the parties and appraised the paper book.

The compromise Annexure R-1 and the statement recorded read as under:-

“Annexure R-1

Mutual Compromise dated 21-8-2011

Subject: Compromise between Satish S/o Sh.Rugha Ram & Dayanand S/o Sh.Chandan etc.about irrigation water.

Today dated 21-08-2011 Gram Panchayat Kabarchha by hearing both parties decided the matter of running water course which passes through the fields of Satish S/o Sh.Rugha Ram S/o Sh.Pohlu by mutual compromise-Fields of Chandan S/o Jug Lal, Bir Bhan S/o Jugu and Suraj Bhan S/o Jug Lal are irrigating through this water course. This water course today kept as running before Panchayat. If anybody interfere in the matter in that case nobody can get irrigation water through

this water course and then panchayat have right to social cut Rugha S/o Pohlu Ram and his family members. Further this water course will remain a continuous till then the member of Jug Lal party willing to continue. Nobody out of both parties have right to file a case in the court for this water course as this said water course was given for irrigation before the Panchayat with Mutual compromise. No body allowed to breach this mutual compromise, so the same has been written and both the parties are bound this agreement.

Thanking you,

Ist party

2nd party

Sd/-Rishi Pal, Satish

Sd/-

*Pawan Kumar, Ram Phal
Sharam, Daya Nand &
Sukh Pal.*

Gram Panchayat Kabarchha

Sd/-

*Jug Pal Singh, Satbir, Nafe Singh,
Bhana Ram, Khazan Singh, Hari Narain,
Dharma, Radhe Kishan and
Raghbir Singh Sarpanch.*

Statement

Pawan Kumar S/o Birbhan (appellant) appeared in the court of the under signed along with village Sarpanch, other members and respondent Shri Satish s/o Shri Raghunandan and stated that both the parties have gone under a mutual agreement and no further action is required in the matter.

Sd/-

Sd/-

*Pawan Kumar S/o Birbhan Divisional Canal Officer
Raghbir Singh Surpanch, Bikhu Narwana W/S Division,
Ram Ex.Panch, Shiv Kumar Ex.Panch Narwana
Om Parkash, Amit S/o Krishan
& Satish S/o Raghunandan.”*

There is no rebuttal to the aforementioned compromise and the

same has also been reflected in the order of the Divisional Canal Officer. In my view, the petitioner is estopped to challenge the same.

Regarding the maintainability of the second appeal, the Act is silent. This Court has called upon the learned counsel for the petitioner to provide any case law, but no such law has been provided. No other point is urged or raised.

Accordingly, the writ petition stands dismissed.

April 27, 2017
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No