

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.1811 of 2017

Date of Decision.01.02.2017

Chunni Lal and others

.....Petitioners

Vs

State of Haryana and others

.....Respondents

Present: Mr. Sanjiv Gupta, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

-.-

AMIT RAWAL J. (ORAL)

The prayer in the writ petition is for issuance of mandamus directing the respondents to implement the order dated 25.10.2004 (Annexure P-4) passed by this Court in CWP No.9304 of 2004 on the premise that the opposite party had filed writ petition bearing No.3906 of 2015 without impleading the petitioner in which the State filed the reply and stated as under:-

“1. That the petitioner by way of present writ petition has prayed to quash the order dated 17.11.2014 passed by respondent No.5, Annexure P-7 and for directing the respondents to implement the order dated 07.03.2002 passed by the then Divisional Canal Officer, Narwana, Annexure P-1, order dated 29.01.2004 passed by respondent No.4 Annexure P-2 and order dated 7.5.2005 passed by the respondent No.3 Annexure P-3, vide which the outlet RD-827/L Badhana Minor was split and a new outlet RD 3600/L Badhana Minor was approved and sanctioned. In fact, the share holders of the outlet namely Chuni Lal and others filed Civil Writ Petition No.9304 of 2004 in the Hon'ble Court against the orders passed by the departmental authorities in the matter and before the Hon'ble

Court, the matter was amicably settled on the basis of the short reply by way of affidavit filed by Shri M.K. Ahuja, the then Divisional Canal Officer, Pundri to the extent of repairs of the water courses of outlet RD-827/L Badhana Minor and the said writ petition was disposed of by the Hon'ble Court vide order dated 25.10.2004, as per Annexure P-4. In compliance with the order dated 25.10.2004, passed by the Hon'ble High Court, the necessary repairs of the water courses of outlet RD-827/L Badhana Minor were carried out in the year 2005. A perusal of the order dated 25.10.2014, Annexure P-4 passed by the Hon'ble Court shows that there is no mention regarding fixing of separate outlet at RD/3600/L Badhana minor. All the share holders of outlet RD-827/L Badhana Minor were satisfied with the action taken by the department as they were getting sufficient quantity of canal water to irrigate their fields through water course outlet RD-827/L Badhana Minor and there was no need to fix separate outlet at RD 3600/L and after a long spell of ten/election years, the present writ petition has been filed by the petitioner with ulterior motive to cause harassment and in connivance to the answering respondents. Since there is no merits in the present writ petition, it is liable to be dismissed.”

Since the petitioner was not impleaded as party and attempt was made to apply fraud and misrepresentation has been made, an application was moved by the petitioner under Order 1 Rule 10 CPC but the same had been dismissed. The aforementioned order was assailed in the LPA but the writ petition came to be withdrawn and thereafter the water course had been directed to be provided in view of the directions contained in the order dated 25.10.2004 which is sought to be implemented in the

present writ petition.

I am of the view that without approaching the concerned authority and seeking vindication of his grievance, the petitioner cannot come to this Court straightway. Keeping in view the aforementioned, I dispose of the writ petition directing the respondents to treat this writ petition as representation and take a decision thereon after affording opportunity to the petitioner and pass a speaking order within a period of one month from the date of receipt of certified copy of this order.

(AMIT RAWAL)
JUDGE

February 01, 2017
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No