

AT CHANDIGARH

C.W.P. No.18465 of 2017

Date of Decision:21.08.2017

.....Petitioner

Vs.

State of Haryana and othersRespondents

CORAM:- HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Shalender Mohan, Advocate for the petitioner.

Rakesh Kumar Jain, J. (Oral)

This petition is filed to challenge the order dated 09.02.2017 (Anneuxre P.6) by which revision petition filed by the petitioner was dismissed.

In short, an application under Section 24(1) of the Haryana Canal and Drainage Act, 1974 (for short, 'the Act') was filed by respondent No.5 for seeking restoration of dismantled water course in murba killa No.143/3-8 middle doll on outlet No.21000/TL Darauli Killa Distributory Village Darauli. The said application was allowed by the Sub Divisional Canal Officer, Adampur Water Service, Sub Division, Hisar with the following observations:-

Therefore the watercourse AB is restored for the period of 6 months on the middle doll of killa No.143/3-8. The respondent is directed to restore AB khal in one week.”

Aggrieved against this order, the petitioner filed appeal under Section 24(4) of the Act. The said appeal was dismissed by the Divisional Canal Officer, Adampur upholding the decision of the Sub Divisional Canal

Officer. Still aggrieved, the petitioner filed a revision before the Superintending Canal Officer, Bhakra Water Service, Circle No.1, Hisar. The said revision was also dismissed. Consequently, the initial order passed by the Sub Divisional Canal Officer of restoration of the water course AB for a period of six months was upheld. Still aggrieved, the petitioner filed CWP No.13943 of 2017 titled as **Anil Kumar v. State of Haryana and others**, which was withdrawn by the petitioner on 03.07.2017. The following order was passed in the said case:-

“After arguing for some time, counsel for the petitioner prays for withdrawal of the petition. It is submitted that even if the temporary water course was permitted for a period of one year, the said period has already expired and it cannot be allowed to continue after the period granted by the concerned authorities.

Counsel for the petitioner wanted to file an appropriate application before the authorities under the Haryana Canal and Drainage Act, 1974.

Dismissed as withdrawn.

Liberty granted.”

According to the petitioner, he filed an application to the respondents asking them to refrain from executing the temporary water course which has become infructuous. It is submitted that as per his information, the respondents are going to implement the order passed by the Superintending Canal Officer.

I have heard learned counsel for the petitioner and after examining the record, am of the considered opinion that there is no merit in

this petition. Actually when the application was filed under Section 24(1) of the Act by respondent No.5, he only asked for restoration of dismantled water course which was restored by the Sub Divisional Canal Officer for a fixed period of six months. Appeal and revision filed by the petitioner were dismissed by the Superior Courts and ultimately the writ petition was also became infructuous because of the efflux of time as the period of temporary water course had expired. The petitioner is now imagining things that the order passed by the Superintending Canal Officer is going to be executed. In my considered opinion, the Superintending Canal Officer has simply upheld the order of the Divisional Canal Officer who has further upheld the order of the Sub Divisional Canal Officer who has restored the temporary water course only for a fixed period. Hence, there is nothing in this case to interfere.

Dismissed.

August 21, 2017
renu

(RAKESH KUMAR JAIN)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No