

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.25794 of 2014
Date of Decision: April 06, 2017

Sardool Singh

...Petitioner

Versus

Superintending Canal Officer, Sirhind Canal Circle, Ludhiana & others

...Respondents

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

Present: Mr.Ravish Bansal, Advocate,
for the petitioner.

Mr.Yatinder Sharma, Addl.A.G.Punjab,
for the State.

Mr.I.S.Brar, Advocate,
for respondent Nos.3 & 4.

AMIT RAWAL, J. (Oral)

The grievance of the petitioner is that on an application moved by him under Section 30 FF of the Northern India Canal and Drainage Act, 1873 for restoration of the watercourse, the Divisional Canal Officer after seeking report of the Zildar Mudki and Sub Divisional Officer, Gholia, much less statements of the parties, found that the watercourse, was at point CF on the northern boundary of khasra No.231 min, 232 and was required to be restored. However, the Superintending Canal Officer in one line order allowed the appeal dismissing the application on the ground that the petitioner has not been able to prove the existence of the watercourse.

Mr.Ravish Bansal, learned counsel for the petitioner submits
that the order of the Superintending Canal Officer, the operative part of

which is reproduced herein below, does not even advert to the report of the Zileadar and statements of the parties, much less spot inspection, thus, the order is erroneous and vitiated in law:-

“After hearing both the parties, considering and perusing documents in the revenue file, this Court has found that existence of disputed watercourse is not proved. Opposite party's land is getting water through watercourse CDE shown in site plan annexed in revenue file below pulley shown at point M. Respondent side could not raise any cogent argument regarding restoration of disputed watercourse on northern boundary of Khasra No.231 min, 232. Hence, appeal of the appellants is accepted u/s 30FF of Canal and Drainage Act 8 of 1973 and order dated 21.5.2014 of Divisional Canal Officer, Faridkot Canal Division, Faridkot is set aside.

Order pronounced in presence of both parties.”

Per contra, Mr.I.S.Brar, learned counsel for respondent Nos.3 and 4 submits that the order of the Superintending Canal Officer is perfectly legal and justified and does not call for any interference.

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

On perusal of the operative part of the order, I am of the view that the Superintending Canal Officer has not adverted to the report of the Zileadar, much less statements of the parties and how and in what manner, the order of the Divisional Canal Officer has been held to be erroneous and perverse. There has to be categorical findings. In the absence of the same, the authorities are enjoined upon an obligation to deal with the matter in a most objective and pragmatic manner.

Resultantly, the impugned order is set-aside and the matter is remitted back to the Superintending Canal Officer with a direction to

proceed with the appeal of the appellants, i.e., 63DB:/A/Faridkot/11/2014 titled as Balwant Singh & another Versus Sardool Singh and decide the same afresh in accordance with law within a period of two months from the date of receipt of certified copy of this order.

The parties, through their counsel, are directed to appear before the Superintending Canal Officer, Sirhind Canal Circle, Ludhiana on 28.4.2017.

The petition stands allowed in terms of the aforementioned observations.

April 06, 2017
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No