

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

CWP No.4099 of 2015

Date of decision:21.03.2017

Prahlad Ram

... Petitioner

Vs.

Superintending Canal Officer and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. P.K.Ganga, Advocate
for the petitioner.

Mr. Rajbir Singh, AAG, Haryana.

Mr. Sanjiv Gupta, Advocate
for respondent No.4.

AMIT RAWAL J.

The petitioner – Prahlad Ram has knocked the door of this Court by challenging the orders dated 17.07.2014 (Annexure P-2), 28.11.2014 (Annexure P-3) and 10.02.2015 (Annexure P-4) passed by respondents No.1 to 3.

Mr. P.K.Ganga, learned counsel appearing on behalf of the petitioner submits that respondent No.4-Amar Singh son of Bhauma Ram moved an application before respondent No.3–Sub Divisional Canal Officer for restoration of water course A-B indicated in the site plan. Respondent No.3 recorded statements of both the parties and perused the record and without applying the judicious mind restored the water course A-B for a period of one year.

Aggrieved against the aforementioned order, the petitioner and as well as respondent No.4 preferred their respective appeals. However,

appeal of petitioner was dismissed and that of respondent No.4 was accepted, in essence, water course was ordered to be restored permanently. In fact, respondent No.4 has not been able to prove the ingredients of Section 2(15) of Haryana Canal and Drainage Act, i.e., sanctioned water course, by prescription or by agreement. The orders of the authorities below assailing the orders also resulted into dismissal of the appeal. Resultantly, the petitioner has approached this Court. In fact, by providing the water course A-B, the land of the petitioner is bifurcated. The respondents did not have any sanctioned water course nor provided any consolidation, thus, restoration of water course A-B is wholly erroneous, much less wholly without jurisdiction and in violation of the provisions of Haryana Canal and Drainage Act. An alternative path, as reflected from the site plan A-B could have easily been provided and his client would render all assistance in this regard.

Per contra, Mr. Sanjiv Gupta, learned counsel appearing on behalf of respondent No.4 submits that perusal of site plan attached by the State Government clearly reveals that the water course A-B has been demolished, being only source of irrigation to the land of answering respondent. Neither there is any bifurcation, rather land of Prahlad Ram shown in pink colour of the site plan of State is, separately, recorded. He also submits that existence of the water course has been proved from the site plan of 1979 which has not been rebutted by the petitioner and thus, urges this Court for dismissal of the writ petition.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of

Mr.P.K.Ganga, for, Divisional Canal Officer in the order dated 28.11.2014 specifically noticed the existence of site plan after going through the certified site plan for the year 1979, in essence, aforementioned site plan of 1979 shows the existence of water course. Even Sub Divisional Canal Officer in his order admitted that water course is in existence. Zileadar on spot inspection also found the demolition of the water course. By confirming to the requirement of law of existence of water course as per the provisions of Section 2(15) of Haryana Canal and Drainage Act, the authorities had ordered for restoration of water course.

In fact, the petitioner has not been able to belie non-existence of water course since time memorial or for number of years. With regard to providing alternative water course, Mr. Sanjiv Gupta, Advocate after having obtained instructions from his client, submits that the area shown is basically a path and, therefore, water course would not be provided. The site plan placed on record by the Government does not show bifurcation of the land, thus, plea taken in the present writ petition is nothing but an act of settlement of old score/egos and nothing beyond.

I am of the view that the orders under challenge are perfectly legal and justified, much less do not call for any interference.

Accordingly, the writ petitioner stands dismissed.

(AMIT RAWAL)
JUDGE

March 21, 2016

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No