

LPA No. 1602 of 2015(O&M)

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Sr. No.225

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

LPA No. 1602 of 2015(O&M)

Date of Decision: 04.08.2017

Dalip Kumar

....Appellant

VS.

Balwant Ram and others

....Respondents

**CORAM HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE DR.SHEKHER DHAWAN**

Present:- Mr.Jatinder Pal Singh, Advocate for the appellant.
Mr. SPS Tinna, Advocate for respondents no.1 to 3.
Mr. A.S.Bedi, Advocate for respondent no.6.

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MAHESH GROVER, J

This appeal is directed against the judgment of the learned
Single Judge dated 19.08.2015 mandating as follows:-

*“ The impugned orders passed by the canal
authorities and the brick-lining by the PSTC are against
the law and are not sustainable in the eyes of law. The
expenses incurred from the State exchequer in brick-
lining 'CCDE' shall be recovered from the persons
responsible for the same including beneficiary. The
needful shall be done within six months after the due
inquiry and after giving opportunity of hearing to the
concerned including respondent no.3.”*

The present respondents as writ petitioners approached this Court contending that they are owners of some land, the particulars of which were detailed in the petition and asserted that at the time of consolidation watercourse was sanctioned and carved out by imposing a cut from the land of *Mustarka Malkan* and a specific khasra no. 603 was assigned to the watercourse. This was depicted as ACB in the site plan. The watercourse sanctioned by the consolidation authorities was in a straight line depicted by point C to B. It was also alleged that the appellant in collusion with the canal authorities changed the alignment of the watercourse from ACDE .

The learned Single Judge after noticing the controversy concluded that this watercourse as sanctioned by the consolidation authorities by imposing a cut could not be altered. The canal authorities had taken up a plea that watercourse ACB was brick lined about 10 years back and passes through the land of the present appellant. The learned Single Judge having directed in terms which have been extracted above disposed of the writ petition which is the cause of grievance to the appellant who now questions the judgment to contend that since the watercourse ACDE is in existence since long, there would be no occasion to disturb the arrangement particularly when the original watercourse ACB was never constructed.

As against this, the learned counsel for the respondents has contended that after the consolidation authorities sanctioned the watercourse ACB by imposing a cut, there would be no occasion to disturb the arrangement particularly when it has existed since long and the alignment now changed from the one sanctioned to the present existing one i.e ACDE.

After hearing learned counsel for the parties, we are of the considered view that there is no infirmity committed by the learned Single

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Judge in giving the impugned directions. Once the watercourse had been sanctioned in accordance with the consolidation scheme, the appellants as well as the canal authorities would have to explain why this alignment was changed which has not been done. Even in the scheme of things, as per the site plan the watercourse originally sanctioned i.e ACB is in a straight line and, therefore, more conducive for proper irrigation of the area. There is absolutely no reason why the alignment should go towards the South and then proceed in a straight line. The only inference such a realignment offers is that an undue benefit has been given to the present appellant as he seems to be the only beneficiary of it. We, therefore, decline interference in the absence of any legal infirmity and uphold not only the impugned order but also the directions given by the learned Single Judge.

Dismissed.

(MAHESH GROVER)
JUDGE

(SHEKHER DHAWAN)
JUDGE

04.08.2017
mamta

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No