

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

L.P.A.No.1478 of 2015 (O&M) in
Civil Writ Petition No.8877 of 2010
Date of Decision: July 16, 2018

Avtar Singh & others

...Appellants

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL
HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. C.M.Munjal, Advocate,
for the appellants.

Mr.Jagmohan Ghumman, DAG, Punjab,
for the State.

Mr.Arun Bansal, Advocate,
for respondent No.3.

AMIT RAWAL, J.

Appellants are aggrieved of the order dated 17.7.2015 passed by the learned Single Bench, whereby the writ petition preferred against the orders dated 23.7.2008 (Annexure P-2) of Divisional Canal Officer and 27.10.2009 (Annexure P-4) passed by the Superintending Canal Officer, has been dismissed.

The facts with regard to the submission of the application by the private respondents, in the writ petition and as well as in the intra-court appeal for shifting of their water outlet are not in dispute. The ground which has been taken in the writ petition and as well as in the present appeal had been that the application submitted by Tarlok Singh was with regard to the shifting of outlet No.20562/L of Minor No.5 from outlet No.19222/L,

whereas area of Tarlok Singh measuring 36x36 acres had been excluded from outlet No.19360/L and included in outlet No.20730/L, which had seriously affected the rights of the appellants.

Mr. C.M. Munjal, learned counsel appearing on behalf of the appellants submitted that the earlier writ petition filed by the appellants was allowed and the Letters Patent Appeal preferred by the contesting respondents was disposed of vide order dated 3.4.2013 and the matter was remitted back with the direction to decide the controversy afresh. The appellants could not present their case before the learned Single Bench as writ petition was decided at their back and, therefore, the order suffers from illegality. Copy of the affidavit filed in the writ petition was not supplied to the counsel for the appellants and, therefore, they have been prevented to put forward their stand by assailing the orders passed by the authorities, which had seriously affected irrigation of their fields.

On the other hand, Mr. Arun Bansal, learned counsel representing respondent No.3- Tarlok Singh son of Dayal Singh, who moved application before the authorities for shifting of the outlet, supported the order under challenge on the premise that the learned Single Bench, after having called for affidavit of the Divisional Canal Officer, found that RD No. 20562/L was changed to 20730/L Saidawala and RD No.19222/L was changed to 19360/L Shutrana. During all this period, appellants have been irrigating their land and the shifting of the outlet had not seriously affected them vis-a-vis irrigation of their land or yield and, thus, urged for dismissal of the appeal.

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

submissions of Mr. C.M. Munjal.

Even if the appellants had presented their case before the learned Single Bench, hardly any case for giving different opinion than the one assailed herein is made out. The grievance of the appellants has no force, for, it has come in the affidavit of the authorities below that numbers have been changed, therefore, there was no ambiguity in the application submitted by Tarlok Singh for shifting of outlet No.20562/L from outlet No.19222/L, but, in fact the aforementioned numbers have already been changed. As per record, the area of Tarlok Singh etc. comes to 36x36 acres from Mogha Burji 19360/L and water is not provided to the same as water khal is 5-6 killas away. On Mogha Burji 20730/L, their area is 3 acres, therefore, for all intents and purposes, there would not be need of any separate khal and, thus, the appellants would not be at loss.

The orders impugned in the writ petition are of the years 2008 and 2009 and not a single instance of less supply of the water has been pointed out in the grounds of appeal during all this period.

For the reasons stated above, We do not find any error in the order under challenge. While upholding the impugned order, the Letters Patent Appeal is dismissed. Consequently, the application for condonation of delay in filing the appeal is also dismissed.

(RAJESH BINDAL)
JUDGE

(AMIT RAWAL)
JUDGE

July 16, 2018
ramesh

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No