

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.2026 of 2016 (O&M)
in CWP No. 12875 of 2014
Date of decision: 04.04.2018

Gurdev Singh and another

.... Appellants

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL.
HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Vijay Sharma, Advocate for the appellants.

B.S. Walia, J.

[1] Intra-court appeal has been filed against order dated 18.03.2016 allowing the writ petition filed by respondent No.5 by setting aside order dated 20.06.2013 (Annexure P-12) and restraining respondent Nos.2 to 4 herein as well as before the Writ Court from implementing order dated 14.02.2011 (Annexure P-9). Challenge is also to order dated 20.05.2016 passed by the Writ Court dismissing the application filed by appellants for review on merit as well as delay.

[2] The appeal is accompanied by applications seeking condonation of 55 days' delay in filing and 68 days' delay in refiling the appeal.

[3] We have heard learned counsel for the appellants. On 14.07.2017, this Court passed the following order:-

“Prima facie we do not find any reason to interfere, particularly when the site plan is perused.

Learned counsel for the appellants contends that he would produce a better site plan to highlight his grievance.”

Despite aforementioned order and time having been granted to the counsel, no better site plan has been produced.

[4] A perusal of the site plan already on record indicates that distance of fields of respondent No.5 from RD No.94527/TR Rajbaha, Mohal Guara was more than 10,000 feet whereas it is only 90 karams from outlet RD No.46700/L, Rajbaha Sangrur. Parties have been litigating since July, 2004 and there is no mention in the impugned order as to when the new outlet had been created, besides, no finding has been recorded as to what was the effect of the order passed on 28.07.2004 on which date the Divisional Canal Officer sanctioned the scheme on application of respondent No.5 and respondent No.6 that they were irrigating their fields of RD No.94527/TR Rajbaha, Mohal Guara but their certain areas remained uncommandable and the same would become command area if shifted to RD No.46700/L Rajbaha Sangrur. The scheme sanctioned by the Divisional Canal Officer vide order dated 28.07.2004 was approved by the Superintending Canal Officer, Patiala Circle, Patiala vide letter No.5922/R-8 (22) dated 23.09.2004 and vide order dated 13.09.2005, the Deputy Collector, Sangrur approved ‘warabandi’ which was implemented at the spot.

[5] In the circumstances, finding of the Writ Court that it would be unjust and unfair to amend the warabandi after 12 years and revert respondent No.5 to get irrigation from the newly created outlet i.e. outlet No.94527/TR especially when RD No.46700/L Rajbaha Sangrur was nearer

to his fields and his entire area would become commandable if his land was irrigated from the aforesaid outlet, does not warrant any interference.

[6] Accordingly, finding no merit in the appeal, the same is dismissed. Consequently, the applications seeking condonation of 55 days' delay in filing the appeal and 68 days' delay in refiling the appeal are also dismissed.

(Rajesh Bindal)
Judge

(B.S. Walia)
Judge

04.04.2018
amit

1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.