

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.2218 of 2017 (O&M)
in CWP No. 26877 of 2015
Date of decision: 18.01.2018

Jai Narain and another

.... Appellants

Versus

State of Haryana and others

..... Respondents

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

Present: Mr. Vikram Singh, Advocate for the appellants.

B.S. Walia, J.

[1] Challenge in this intra-court appeal is to order of the learned Writ Court dated 18.09.2017 whereby challenge to the order of the Superintending Canal Officer dated 17.03.2015 as also the order of the Chief Canal Officer dated 09.10.2015 by which the order dated 11.12.2014 passed by the Divisional Canal Officer had been set aside, was dismissed.

[2] Grievance of the appellants/petitioners before the learned Writ Court was that their land was at a short distance from the land of the respondents which was depicted in the site plan (Annexure P1) and that there was a consolidation path shown in black colour which otherwise had been given pink colour and the respondents wanted to carve out a watercourse at points 'A' and 'B' for the purpose of irrigating their land shown in orange colour though it was a path provided during consolidation

and the respondents had the water course available at points 'C' and 'D' sanctioned by the Divisional Canal Officer vide scheme of watercourse 'CD' on compensation basis on the Southern side of Killa No.25/21/1 at the cost of the beneficiaries on the ground that the length of water course on the Northern side of Killa No.28/5 (A-B) was 40 karam whereas length of water course 'CD' on the southern side of Killa No.25/21/1 was only 15 karam and the respondents could properly irrigate their land through watercourse 'CD' and there was no difference of their field level.

[3] However, the Appellate Court i.e. the Superintending Canal Officer reversed the finding of the Divisional Canal officer. The order of Superintending Canal Officer was approved by the Chief Canal Officer by holding that a perusal of the khaka plan revealed that there was a lengthy katcha watercourse from the head of outlet approximately in the length of 27 killas (5400 feet) which further ran on zigzag alignment along the village boundary, therefore, the fields of the respondents could not be irrigated by way of the aforesaid alignment, besides, the smallholding of Hukam Chand son of Fatta, etc. would be bifurcated if the watercourse 'CD' was allowed. Moreover, by allowing the watercourse on the alignment of 'CD', the same would also involve a drainage crossing as shown in the khaka plan which would not be technically suitable/operable, whereas on the other side, the watercourse 'AB' proposed and marked on the khaka plan would directly irrigate the fields of the respondents as it was five killas (1000 feet) away from the main water course and it was the shortest possible alignment and connected with the lined water course and thus, would irrigate the fields of the respondents in a better way. The learned Chief Canal Officer further observed that the spot level of the holding of the respondents was such that

country slope was towards the drain, therefore, irrigation from killa to killa was possible only if Canal water was given from point 'A' towards 'D'. In the aforementioned background, watercourse 'AB' on the Northern side of Killa No.28/5 on compensation basis was sanctioned under the Haryana Canal and Drainage Act, 1974 by upholding the decision of the Superintending Canal Officer, YMS Circle, Karnal dated 17.03.2015.

[4] The learned Writ Court dismissed the writ petition on the ground that the reasons given by the Appellate Authority were more cogent, and the decision of the Divisional Canal Officer had rightly been reversed.

[5] We have heard learned counsel and are of the view that once the matter has been considered in detail by the authorities below and order passed by the Divisional Canal Officer dated 11.12.2014 was set aside by the Superintending Canal Officer vide order dated 17.03.2015 and the same was upheld by the Chief Canal Officer vide order dated 09.10.2015 by a well-reasoned order, then in that eventuality, the well-reasoned order of the Superintending Canal Officer, upheld by the Chief Canal Officer as well as the learned Writ Court does not warrant any interference, particularly in view of the fact that the watercourse 'AB' was on the shortest possible alignment and connected with the lined water course, therefore, would irrigate the fields of the respondents in a better way. Moreover, the spot level of the holding of the respondents is such that country slope is towards the drain, as such irrigation from killa to killa is possible only if canal water is given from point 'A' towards 'D'. Once the authorities below have considered all aspects of the matter and have sanctioned the watercourse 'AB' on the Northern side of Killa No.28/5 on compensation basis under the Haryana Canal and Drainage Act, 1974, no ground whatsoever is made out

to interfere with the well-reasoned order passed by the authorities below as has been upheld by the learned Writ Court particularly since no violation of provisions of any law has been pointed out.

[6] Accordingly, the present appeal is dismissed.

(Rajesh Bindal)
Judge

(B.S. Walia)
Judge

18.01.2018
amit

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