

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No. 900 of 2019 (O&M)
Date of decision: 10.05.2019

Dulla Singh

... Appellant

Versus

Superintendent Canal Officer, Sirhind Canal Circle, Ludhiana and
others

... Respondents

CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI, JUDGE

Present: Mr. B.S.Bhalla, Advocate, for the appellant.

ARUN PALLI, J.

This is an *intra Court* appeal under Clause-X of the Letters Patent, against an order and judgment dated 18.12.2018, rendered by the learned Single Judge, vide which the writ petition preferred by the appellant against an order dated 14.12.2017, passed by the Superintendent Canal Officer, whereby he affirmed the order dated 24.05.2017, passed by the Canal Division Officer, and restored the demolished watercourse, has since been dismissed.

Respondents 3 to 6 moved Canal Division Officer under Section 30 FF of the Northern India Canal and Drainage Act 8 of 1873, seeking restoration of demolished watercourse of Moga Burji 102100/Sajja Rajwaha Kingwah, village Bhekha, Tehsil Bagha Purana, District Moga. In brief, their grievance was that appellant Dulla Singh had demolished the watercourse 30 M 1 and 31 M 5/2 (northern side) though the said mogha

was in existence for the past 40 years.

As opposed to this the defence set out by the appellant was, for no such watercourse ever existed there could be no occasion for him to have demolished the same. Thus, the claim of the private respondents was false.

Upon a consideration of the matter the Canal Division Officer reached a conclusion that watercourse as was being claimed by the private respondents did exist at the spot and therefore, vide order dated 24.05.2017, ordered its restoration through the land of the appellant. Being aggrieved the appellant assailed the said order vide an appeal, which too was dismissed vide order dated 9.2.2018, by the Superintendent Canal Officer. That is how the appellant assailed those two orders vide a writ petition, referred to above, which has since been dismissed. Thus, this appeal.

We have heard learned counsel for the appellant and perused the records.

Ex facie the short issue involved for determination before the respondents-authorities as also the learned Single Judge has been: **whether the khaal or a watercourse i.e. 30 M 1 and 31 M 5/2 ever existed at the spot which was alleged to have been demolished by the appellant?**

Upon a due consideration and thorough analysis of the matter in issue, the learned Single Judge concluded:-

“Firstly, the resolution of the Gram Panchayat, which is placed on record as Annexure P-1, has no date and in any case, the finding, as has been recorded by the canal authorities, is based upon

the record, wherein they have specifically found that there was a *pakka* water course from point A to B as per the canal maps of Village Bhekha. The water course from point B to C was a *kacha* water course and about 48 karam of water course has been demolished from point C to D i.e. 31 M 5/2 and 30 M 1/1 and 1/2. Remaining kacha water course is in existence from point D to E which ends up at village pond. These facts having been established to be correct apart from the receipts regarding the amount deposited by the private respondents for using the water from the canal, the findings, as recorded by the Courts below, cannot be faulted with”.

Besides the above, the reports submitted by the Zileदार, post spot inspection, revealed that a watercourse did exist at the spot. In fact, a watercourse was still in existence from point D to E, which proved that a khaal was in existence at the spot. Further, the private respondents had placed on record the copies of the receipts that showed the requisite deposits with the Canal department for irrigation purposes. In fact, even the concerned Zileदार and Sub Divisional Officer recommended restoration of the disputed watercourse. The sale deed produced by Angrej Singh (respondent No.3) as regards the land that formed part of the joint khata of appellant Dulla Singh also substantiated the claim of the respondents. Thus, in the given situation and circumstances, the authorities concluded that the disputed watercourse was required to be restored in the interest of irrigation.

In the wake of the above, we too are dissuaded to interfere with the orders passed by the respondents as also the impugned order and judgment. The appeal being devoid of merit and is accordingly dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

10.05.2019

Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No