

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No. 1200 of 2019 (O&M)
Date of decision: 01.07.2019

Rajender

... Appellant

Versus

**The Chief Canal Officer, Bhakra Water Services, Haryana, Sinchai
Bhawan and others**

... Respondents

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

Present: Mr. Ramesh Goyat, 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 10.05.2019, rendered by the learned Single Judge, vide which the writ petition preferred by the appellant, has since been dismissed.

The facts that are required to be noticed are limited.

Petitioner as also respondent No.5-Krishan Kumar happened to be share holders of outlet bearing No.RD-9225-R, Bir Minor of village Shekhpura, Tehsil Hansi, District Hisar. Record shows that turn (warabandi) of the appellant to irrigate his land was fixed at khata No.44 and that of respondent No.5 with khata No.45. For, the khata through which respondent No.5 would draw water was situated behind khata No.44, and was at the tail end of the water course, his grievance was that he would only

get residual (jhara) water to irrigate his land holdings. Resultantly, he moved an application to shift his turn from khata No.45 to khata No.39/1. The appellant opposed the said application and filed objections thereto. The Deputy Collector, Hansi Water Services Division, Hansi (respondent No.4), post spot inspection, submitted a report that respondent No.5 was getting adequate water to irrigate his fields, thus vide order dated 25.08.2014, his application was rejected. Vide order dated 13.03.2015, even the appeal preferred by respondent No.5, against the said order was dismissed by the Divisional Canal Officer. However, the revision preferred by respondent No.5, against those orders was accepted by the Superintending Canal Officer, vide order dated 26.11.2015. Faced with this, and the appellant being aggrieved by the said order filed a revision before Chief Canal Officer (respondent No.1), which had since been dismissed vide order dated 30.05.2016/10.06.2016. Which is why, the appellant/petitioner approached this Court vide a writ petition, referred to above, which has also been dismissed. Thus, this appeal.

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

Ex facie, the precise grievance of the appellant before respondents-authorities as also the learned Single Judge has been that he was a small land owner and as the level of his holdings was about one and half feet higher than that of respondent No.5, therefore, if the wari/turn of respondent No.5 was changed from khata No.45 to khata No.39/1, he would not get adequate water to irrigate his land. Further, for, the Deputy

Collector visited the spot and found that respondent No.5 was getting enough water to irrigate his holdings and rejected his claim, the Superintending Canal Officer as also the Chief Canal Officer ought not to have interfered in the matter. However, upon a due and comprehensive consideration of the matter in issue and material on record the learned Single Judge concluded: owing to series of bends i.e. 7 in numbers in the water course through which the water was being provided to respondent No.5 was not adequate/proper. Further, even though, the Deputy Collector, had visited the spot and furnished a report but nothing was indicated therein as regards the quantum of water being received by respondent No.5 or the appellant. Thus, his report that respondent No.5 was getting adequate water was devoid of basis. Further, respondents No.1 and 2 having examined the matter in the right earnest had taken a view that changing the turn of respondent No.5 to khata No.39/1 would ensure that he gets adequate water through a straight water course. Particularly, for he possessed a larger land holding. Whereas, no prejudice was caused to the appellant as even the residual (jhara) water would now come to his share being at the tail end of the water course. Not just that it was also observed that claim of the appellant that level of his land holdings was 1½ feet higher also remained unsubstantiated for lack of requisite material on record.

Upon being pointedly asked, learned counsel for the appellant failed to refer to anything on record to show if the conclusion arrived at by the learned Single Judge was either contrary to the record or suffered from any material illegality.

In the wake of the above, we too are dissuaded to interfere in the matter. The appeal being devoid of merit is accordingly dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

01.07.2019

Manoj Bhutani

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