

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No. 1246 of 2019 (O&M)

Date of decision: 04.07.2019

Smt. Dhanno

... Appellant

Versus

Superintending Canal Officer, Bhakra Water Services Circle, Kaithal
and others

... Respondents

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

HON'BLE MR.JUSTICE ARUN PALLI, JUDGE

Present: Mr. Kuldip Singh, 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 05.03.2019, rendered by the learned Single Judge, vide which the writ petition preferred by the appellant, has since been dismissed.

Upon an application moved by Ramphal (respondent No.4) and Ratti Ram (respondent No.5) that their running water course has since been demolished by Smt. Dhanno and as a result, irrigation of their fields stopped at site, the Sub Divisional Canal Officer carried out spot inspection on 24.12.2016, and the alleged water course was found demolished at site. Further, for, the demolished watercourse fell within the ambit of temporary watercourse and was duly sanctioned under warabandi, vide order dated 27.12.2016, its restoration to its original condition was ordered. The appeal as also the revision petition filed by the appellant against the said order were dismissed, vide orders dated 24.03.2017 and 21.08.2017, respectively,

by the Divisional Canal Officer and Superintending Canal Officer. That is how, the appellant approached this Court, vide a writ petition, referred to above, which has been dismissed, vide impugned order and judgment.

Ex facie, upon a consideration of the matter in issue and the material on record, the learned Single Judge concluded:-

“Perusal of the impugned orders would indicate that there is evidence to the effect that the water course has been dismantled. It is, however, asserted by the petitioner that the water course was running for the purpose of irrigation from tubewell water, which cannot be accepted in the light of the *warabandi*, which has been found to be establishing the factum of water course getting water from the canal. The Sub Divisional Canal Officer as well as the Divisional Canal Officer inspected the spot and have found that the water course has been dismantled.

Therefore, in view of the above, the writ petition stands dismissed and the findings recorded by the authorities below in the impugned orders dated 24.03.2017 and 21.08.2017 (Annexures P-5 and P-7 respectively) are hereby upheld. The temporary water course is directed to be restored for a period of one year as per the orders passed by the authorities below”.

Apparently the only argument raised by the appellant before the authorities below as also the learned Single Judge has been that the alleged watercourse was running only for the purpose of tubewell irrigation, and thus, the application moved by the private respondents for its restoration

was wholly misconceived. However, the Sub Divisional Canal Officer as also the Divisional Canal Officer personally inspected the site and upon examining the *khaka* plan, report of Zileदार and warabandi record conclusively concluded that even though the disputed water course fell within the ambit of temporary watercourse but was duly sanctioned under warabandi and was shown to be running at site.

Upon being specifically asked, learned counsel for the appellant failed to point out anything on record to show if the conclusions recorded by the authorities below as also the learned Single Judge were against records or suffered from any material illegality. That being so, the only and the inevitable conclusion one could reach: no interference at all was/is warranted with the orders passed by the authorities below as also the impugned order passed by the learned Single Judge affirming those orders. The appeal being devoid of merit and is accordingly dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

04.07.2019
Manoj Bhutani

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