

CWP-18030-2019

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-18030-2019

Date of Decision: 8th July, 2019

Nathu Ram

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. B.S. Makar, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 30.11.2015 (Annexure P-3) passed by the Superintending Canal Officer, CAD Circle, Hisar, order dated 29.05.2017 (Annexure P-7) passed by the Superintending Canal Officer, CAD Circle, Hisar, on a remand order passed by the Chief Canal Officer, Command Area, Development Authority, Panchkula, Haryana – respondent No.2, order dated 26.02.2018 (Annexure P-8) passed by the Chief Canal Officer, Command Area, Development Authority, Haryana – respondent No.2 and the order dated 23.08.2016 (Annexure P-5) passed by the Superintending Canal Officer, CAD Circle, Hisar.

2. It is the contention of the learned counsel for the petitioner that the order dated 27.11.2015 (Annexure P-3) was passed by the Superintending Canal Officer, CAD Circle, Hisar, whereby, application of the petitioner for change of alignment of branch watercourse has been

accepted subject to certain conditions. He contends that the alignment which was proposed by the petitioner in his application was based upon the land, which was left in the consolidation proceedings for the purpose of the canal, which land has never been utilized for the said purpose and some other watercourse on a separate piece of land is running. He contends that the land which has been left out under the consolidation proceedings was for a particular purpose and should be utilized for the said purpose alone and continuing with the canal as it exists is not sustainable and therefore, contends that the impugned orders which have been passed by the authorities below cannot sustain and deserve to be set aside.

3. I have considered the submissions made by the learned counsel for the petitioner and with his assistance have gone through the records of the case including the impugned orders but do not find myself in agreement with the assertions of the counsel for the petitioner keeping in view the fact that the watercourse which has been in existence is running for the last 50 years and as per the definition of the permanent watercourse provided under the Haryana Canal and Drainage Act, 1974, the said watercourse is a permanent watercourse, which has been lined by the HSMITC and *warabandi* is also running/approved of this watercourse and further, the entire land is being irrigated through this watercourse properly. Change of alignment would create a new divide line on fields in the shape of pucca watercourse.

4. The request has not been accepted by the authorities below. The reasoning which has been assigned for the purpose of not accepting the

claim of the petitioner cannot be faulted with and in any case, the initial order which has been passed by the Superintending Canal Officer, CAD Circle, Hisar, dated 30.11.2015 (Annexure P-3) was a conditional order, wherein, first condition was that all the concerned farmers are agreed with the proposal of change of alignment as recommended by the Divisional Canal Officer and there is no effect on the common area. Unfortunately, the share-holders have objection to the realignment of the watercourse as has been prayed for by the petitioner. Although the petitioner has challenged this order also in the writ petition but the same cannot be accepted at this belated stage especially in the light of the fact that the said order has been accepted by the petitioner and it is, in pursuance thereto, the authorities have proceeded to consider the objection of the co-sharers leading to the passing of the various orders which have been passed on record.

5. This Court does not find any reason to interfere in the well-reasoned and speaking order passed by the authorities below, which would call for any interference by this Court in exercise of its extraordinary writ jurisdiction.

6. In view of the above, finding to merit in the present writ petition, the same stands dismissed.

8th July, 2019
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No