

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH

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CWP-6626-2018

Date of decision: 14.05.2019

POONAM CHAND AND ANOTHER

...PETITIONERS

VS.

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. P.K.Ganga, Advocate,
for the petitioners.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioners have approached this Court challenging the order dated 28.07.2016 (Annexure P-2) passed by the Sub-Divisional Canal Officer, Baruwali Water Services Division Sirsa-respondent No. 4, order dated 07.12.2016 (Annexure P-3) passed by the Divisional Canal Officer, Neharana, Water Services, Sirsa-respondent No. 3 and order dated 17.04.2017 (Annexure P-5) passed by the Superintending Canal Officer, Bhakra Water Services Circle, Sirsa-respondent No. 2, whereby the application submitted by respondent No. 5 for restoration of a *Khal* has been accepted by the authorities and appeal and revision preferred by the petitioners stand dismissed.

With reference to the Site Plan (Annexure P-1), it is the contention of the learned counsel for the petitioners that the water course A-

B is already in existence and the land of respondent No. 5 starts at Point B while the water course which has been ordered to be restored i.e. A-B utilizing the land of the petitioners without any reason as the land of respondent No. 5 could be irrigated from Point B itself. He further contends that the authorities below have passed the orders on the basis of *warabandi*, which, according to the judgment of this Court in CWP No. 18280 of 2015 titled as **Ajit Singh and others vs. Superintending Canal Officer and others**, holds that for restoration of a water course, *warabandi* is not a proof that there existed a water course. He, thus, contends that the orders passed by the authorities below cannot sustain and deserve to be set aside.

I have considered the submissions made by the learned counsel for the petitioners and with his assistance, have gone through the impugned orders.

A perusal of the above-said orders would indicate that there was a written agreement dated 16.12.1978 between Nathu Ram-respondent No. 5 and Rawta Ram son of Sh. Hans Ram, father of the petitioners in the presence of the then Sarpanch of Village Barasari, Tehsil and District Sirsa and some others. According to the said agreement, it is evident that the water course was in existence by way of written agreement. Authorities have also mentioned that the agreement had not been denied by the petitioners. However, this aspect is disputed by the counsel for the petitioners.

Keeping in view the fact that there was an agreement between the predecessors-in-interest of the petitioners and respondent No. 5, which aspect has been found by all the authorities to be correct, the plea of the counsel for the petitioners cannot be accepted that there was no water

course in existence. The orders, as passed by the authorities below, being based upon proper appreciation of the pleadings and evidence on record do not call for any interference by this Court.

The writ petition, therefore, stands dismissed.

May 14, 2019

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No