

**212 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-1468-2020(O&M)

Date of decision:29.01.2021

Balwinder Singh and others

.....Petitioners

Versus

Superintending Canal Officer Sirsa and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Satbir Gill, Advocate for the petitioners

Mr. Samarth Sagar, Addl. AG, Haryana

Mr. A.K.Sharma, Advocate for respondent no.4

ANIL KSHETARPAL, J.

Through this writ petition filed under Article 226/227 of the Constitution of India, the petitioners pray for issuance of a writ in the nature of Certiorari for quashing the order dated 06.02.2019 passed by respondent no.3, order dated 19.06.2019 passed by respondent no.2 and order dated 18.09.2019/18.11.2019 passed by respondent no.1.

The dispute in the present case is with regard to their turn to draw water from a water channel. Respondent- Beant Singh filed an application before the Deputy Collector for change of his turn and to permit him to draw water from a different water channel. The Deputy Collector after inspecting the site found that the grievance of Beant Singh is genuine. Hence, the same was allowed vide order dated

06.02.2019. The petitioners filed an appeal before Divisional Canal Officer which was dismissed on 19.06.2019 after hearing both the sides. The petitioners further filed a petition under Section 55 (6) of Haryana Canal and Drainage Act, 1974, before Superintending Canal Officer, which was also dismissed.

During the pendency of the aforesaid petition before Superintending Canal Officer, a fresh report from the Divisional Canal Officer was sought and after perusal thereof the following order was passed:-

“The arguments of both the parties have heard in details. The Site Plan, Case File and all others relevant records attached and fresh report of Divisional Canal Officer, Rori W/S Division, Sirsa dated 13.11.2019, as asked, was perused properly. From perusal of NSL of land of respondents, it is clear that the slope of land is towards eastern side while the lined watercourse passes along the holding of respondent towards western side which is at higher side and better irrigation is possible. The argument of the revisionist that the lined watercourse in between Rect./Kila no.75//24-25 is constructed by them at their own land and also their own cost is also wrong because this watercourse is approved upto point Rect./Kila No.75//24x92//5 by the Superintending Canal Officer Sirsa lining Circle HSMITC, Sirsa,

vide his decision dated 08.11.1989. No other proof is on record in favour of this claim of self construction of watercourse. Thus, this claim is also liable to be rejected.

Under the circumstance mentioned above, the Divisional Canal Officer, Rori W/S Division, Sirsa has correctly changed the wari of respondent on lined watercourse. I do not find any reason to change the decision. The revision application is dismissed and the decision of Divisional Canal Officer, Rori W/S Division, Sirsa dated 19.06.2019 is hereby upheld. The revision application is disposed off accordingly.

Decision be conveyed.”

Learned counsel for the petitioners contends that from a bare look at the lay out plan, it is apparent that the respondent no.4 instead of continue to draw water from the existing water channel, has opted for a longer route. He further submits it is a private water channel laid by the petitioners and therefore, the authorities were incorrect in ordering shifting of the turn of respondent no.4 to the water channel which opens in the land of the petitioners.

This Court has considered the submission. It is apparent from the reading of the concurrent orders passed by all the three authorities that the lined water channel in between Rect./killa no.75//24-25 is an approved water course by Superintending Canal Officer, Sirsa,

Line Circle, HSMITC, Sirsa, vide decision dated 08.11.1989. Therefore, both the authorities as a matter of fact have found that the aforesaid water channel has not been constructed by the petitioners. Both the authorities have also found that due to slope of land towards eastern side, the respondent no.4 was unable to get proper irrigation and therefore, it has been found appropriate to shift him to other water channel.

Keeping in view the aforesaid findings, which are not proved to be erroneous, this Court does not find it appropriate to exercise its writ jurisdiction. The writ jurisdiction is not equivalent to an appeal. The scope of judicial review in the orders passed by the quasi-judicial authorities is limited. Still further, in this case, three authorities, who are expert on the subject, have already examined this matter and have recorded concurrent findings. Hence, no ground to issue a writ is made out.

Dismissed.

29.01.2021

rekha

Whether speaking/reasoned

Whether Reportable

Yes /No

Yes / No

(ANIL KSHETARPAL)
JUDGE