

Raghubir Singh

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Fateh Saini, Advocate for the petitioner

Mr. Manish Dadwal, AAG Haryana

Mr. J.S. Chahal, Advocate for respondent No. 7 and 8

Sudhir Mittal, J. (Oral)

The petitioner is before this Court being aggrieved by orders of the Canal Authorities whereby the watercourse has been directed to be restored on an application moved by respondent No. 7.

On 27.07.2017, respondent No. 7 filed an application for restoration of a watercourse which was allegedly passing through the land of the petitioner. Thereupon a report dated 03.08.2017 of the Patwari was submitted which stated that there was an earlier watercourse running through the land of the petitioner but the same was running on the basis of an agreement between the parties. Thereafter, the Sub Divisional Canal Officer passed an order dated 18.08.2017 directing restoration of the aforementioned watercourse for a period of six months with liberty to respondent No. 7 to apply for a new watercourse. The said order was challenged by the petitioner in appeal. An appeal was also filed by respondent No. 7. The appeal of the petitioner was dismissed by the Divisional Canal Officer, however, the appeal of respondent No. 7 was allowed to the extent that running of the watercourse was extended for another six months. Meanwhile, respondent No. 7 moved an application for sanction of a new watercourse and the said application has been allowed by the Divisional Canal Officer vide order dated 28.05.2018.

The sanction has been granted on payment of compensation basis.

Learned counsel for the petitioner submits that the order dated 18.08.2017 directing restoration of the watercourse was illegal inasmuch as there was no watercourse at the site. The dismissal of the appeal was also illegal for the same reason. He relies upon a Division Bench judgment in *Sube Singh and another vs. R.S. Bamel, Sub Divisional Canal Officer Hisar Water Services Division and others, 2003(2) PLJ 236*.

Learned counsel for the private respondents submits that the writ petition has been rendered infructuous because the period of six months has since elapsed. Order dated 28.05.2018 is an appealable order and the same has not been challenged by the petitioner.

The period of six months for which the restoration of the watercourse was granted has admittedly expired. Thus, challenge to the orders dated 18.08.2017 and 05.02.2018 does not survive. Since the operation of the said orders has come to an end, the question whether even a temporary restoration could have been granted or not has been rendered academic. I, thus, refrain from opining thereupon. So far as order dated 28.05.2018 is concerned, the said order is appealable and can be challenged by way of an appropriate alternative statutory remedy provided under the law. Even otherwise, the said order is not under challenge in the present writ petition.

In view of the above, nothing survives for adjudication in this writ petition and the same is, accordingly, dismissed.

The petitioner is, however, at liberty to challenge order dated 28.05.2018 in accordance with law.

Miscellaneous application(s) if any also stand disposed of.

January 15, 2020

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No