

CWP No. 23019 of 2019

Date of Decision: February 17, 2020

Rajesh

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Nitish Bhatia, Advocate
for the petitioner

Sudhir Mittal, J.

The petitioner is aggrieved because his appeal has been dismissed by the Divisional Canal Officer vide order dated 27.06.2019 being time barred.

The petitioner had filed an application for restoration of a demolished watercourse which was rejected by the Sub Divisional Canal Officer, Barwala vide order dated 11.10.2012. Appeal filed by the petitioner was, however, accepted by the Divisional Canal Officer vide order dated 06.06.2013. Predecessor-in-interest of respondent No. 5 preferred a revision against this order which was, however, dismissed by the Superintending Canal Officer vide order dated 28.06.2013 on the ground of maintainability. The predecessor-in-interest of respondent No. 5 challenged this order through CWP No. 15991 of 2013 and the same was allowed vide order dated 22.04.2014. The Superintending Canal Officer was directed to decide the revision petition on merits. Vide his order dated 14.08.2014, the Superintending Canal Officer dismissed the revision petition on merits. Aggrieved, the predecessor-in-interest of respondent No. 5 filed another writ petition viz. CWP No. 18225 of 2014 but the same was dismissed as having been rendered infructuous vide order dated 05.10.2015 as restoration of the demolished

watercourse had been ordered only for a period of one year, which period had expired. Review of the said order was sought by respondents No. 5 to 8 therein but the same was rejected vide order dated 23.12.2015 with an observation that in case of any grievance, they could avail remedy available to them in accordance with law. Thus, the petitioner (being one of the applicants - respondents No. 5 to 8 in the earlier writ petition) filed yet another application for restoration of the demolished watercourse. The same was dismissed by the Sub Divisional Canal Officer vide his order dated 25.06.2018. This order was challenged directly before this Court through CWP No. 1228 of 2019 but the same was dismissed vide order dated 17.01.2019 in view of the availability of remedy of appeal. As mentioned earlier, the appeal has been dismissed as time barred vide order dated 27.06.2019 passed by the Divisional Canal Officer. Thus, the present writ petition has been filed.

Learned counsel for the petitioner submits that the order dated 27.06.2019 may be set aside and the matter may be remanded for a decision on merits as the appeal has been dismissed only on the ground of limitation.

Perusal of the impugned order shows that the order dated 25.06.2018 passed by the Sub Divisional Canal Officer was conveyed to the petitioner on 16.07.2018. The writ petition was dismissed on 17.01.2019 and even thereafter the appeal was filed on 10.06.2019. Thus, the Divisional Canal Officer was justified in dismissing the appeal on the ground of limitation.

No infirmity or illegality exists in the impugned order and, thus, the writ petition is dismissed.

February 17, 2020

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No