

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.211

CWP-7990-2017 (O&M)
Date of decision : 13.2.2020

Vijender and others

..... Petitioners

VERSUS

Chief Canal Officer, BWS Unit, Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. RN Lohan, Advocate, for the petitioners.

Mr. RKS Brar, Addl. AG, Haryana.

Mr. VD Sharma, Advocate for

Mr. CP Tiwana, Advocate, for respondent No.5 to 9.

SUDHIR MITTAL, J. (Oral)

A scheme was sanctioned for the land in dispute and an outlet was proposed at RD-80800L. The petitioners filed objections to creation of the said outlet and demanded an outlet at RD-78050L. The objections were dismissed by the Divisional Canal Officer. Appeal filed by the petitioners however, succeeded and the Superintending Canal Officer found that the land of the petitioners is at a higher level than the land adjoining outlet at RD-80800L and therefore, it would be difficult for the water to flow from the said outlet to the land of the petitioners. A revision was carried by the private respondents and the same has been allowed by the Chief Canal Officer vide impugned order dated 3.4.2017 by finding that the entire area was better commanded by an outlet at RD-80800L.

Since, the dispute was regarding the levels of the land, therefore, the original record was summoned. The same has been produced and according to the original site plan, a water course is to originate at RD-80800L and flow southwards. The Sub-Divisional Officer is present in

Court and he supports the decision of the Chief Canal Officer. He says that levels are as indicated by the learned counsel for the petitioners, but the water does not have to flow from RD-80800L directly towards the land in the vicinity of RD-78050L. Water will flow southwards and the levels of the water channel shall be raised so as to make the entire area commandable.

Learned counsel for the petitioners submits that no water course exists in the entire State of Haryana, where, the level has been raised above 5 ft. from the spot level and thus, the submission of the SDO is erroneous. The SDO has forcefully responded to this submission and has said that the level of the water course shall be increased and is being regularly done all over the State of Haryana to make the area commandable.

I have no option, but to accept the view of the expert. If the expert says that the level of the water course would be raised so as to make the entire area commandable, so be it. No perversity has been pointed out in the impugned orders and thus, no interference is called for.

The writ petition is accordingly, dismissed. However, liberty is granted to the petitioners to approach the canal authorities, once again, in case, they find it difficult to irrigate their land from the water course proposed by the canal authorities.

(SUDHIR MITTAL)
JUDGE

13.2.2020
Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No