

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(117)

CWP-582-2023

Date of decision: - 12.01.2023

Darshan Singh Dult and another

....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Vivek Singla, Advocate
for the petitioners.

VIKAS BAHL, J. (ORAL)

This writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the order dated 25.11.2022 (Annexure P-4) issued by respondent No.2 vide which the appeal filed by the petitioners has been dismissed. Challenge is also to the order dated 24.08.2022 (Annexure P-2) passed by respondent No.3 whereby the petitioners have been held liable for the demolition of the alleged canal khal (mogha) and the same has been ordered to be restored.

Brief facts of the case are that the private respondents moved an application stating that the present petitioners have demolished the canal khal and prayed that the same be released with respect to land No.1052, 1053, 1055 min, 1056 min and 1054 west side adjoining road.

The Divisional Canal Officer, Sangrur Division Irrigation Branch,

Sangrur, vide order dated 24.08.2022 (Annexure P-2) has allowed the said application and ordered that the bandobast No.1054 west side road canal khal be released while exercising the power under Section 30 F.F. of the Northern India Canal and Drainage Act, 1873 (Amended Canal & Drainage Act No.8). A perusal of the order would show that the report of the Jiledar who had conducted spot inspection and had recommended the case of the private respondents as well as the report of the Sub-Divisional Officer, Mahorana who had also conducted the spot inspection on 22.07.2020 and had agreed with the report of the Jiledar and had recommended the release of the canal khal in question, were taken into consideration. Even the statements of both the parties were also taken into consideration and on the basis of the same & other documents, the Divisional Canal Officer came to the conclusion that the canal khal of bandobast No.1054 of west side road was proved to be demolished. Aggrieved against the said order dated 24.08.2022, the petitioners filed an appeal before the Executive Canal Officer, Patiala Circle, I.B., Patiala and the said appeal was dismissed vide order dated 25.11.2022 (Annexure P-4). While dismissing the appeal, it was observed by the Executive Canal Officer, that as per the field reports on the spot in Killa No.1054, belonging to the private respondents, khal was present before and after the path (pahi) and the said khal was coming from Mogha Burji 6925/left Sub-Mainar NO.8 of Handiaya Mainar and the said fact was not denied by the petitioner. It was further observed that even the statement given by the petitioner also indicated that the khal with arrangement No.1054 existed. It was further noted that no material had been submitted by the

petitioners so as to rebut the said aspect and accordingly, the appeal was dismissed.

Learned counsel for the petitioners has submitted that the findings of both the authorities are illegal, against law and deserve to be set aside.

This Court has heard learned counsel for the petitioners and has gone through the paper-book.

Findings of both the above-said authorities are based on spot inspections conducted by the Jiledar as well as by the Sub-Divisional Officer and after taking into consideration the statements of the parties. On the basis of the above as well as the other documents produced by the field staff, the authorities arrived at the conclusion that the canal khal of bandobast No.1054 west side road was proved to be demolished and thus, rightly passed the impugned orders. The authorities have also taken into consideration the statement/admission suffered by the petitioners before them which indicated that the khal with arrangement No.1054 existed. Nothing has been shown to this Court to substantiate that there is any mistake or perversity in the orders passed by the authorities.

Keeping in view the above-said facts and circumstances, the the present writ petition being sans merit deserves to be dismissed and is accordingly, dismissed.

January 12, 2023
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No