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

CWP-6644-2021

Date of decision : 12.12.2023

Sukhdev Singh and others**.....Petitioners**

versus

State of Punjab and others**..... Respondents****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. P.K.S. Phoolka, Advocate
for the petitioners.

Ms. Akshita Chauhan, DAG, Punjab with
Mr. Vikramjit ARC, Zileadar.

Mr. S.S. Bhinder, Advocate and
Ms. Impira, Advocate
for respondents No.4 and 5.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for setting aside the order dated 15.01.2020 (Annexure P-1) passed by learned Divisional Canal Officer, Bathinda (respondent No.3) and setting aside order dated 10.12.2020 (Annexure P-2) passed by learned Superintending Canal Officer, Sirhind Canal Circle, Ludhiana, whereby the appeal of the petitioners was rejected, being arbitrary and unjustified and against the facts and circumstances and principles of natural justice.

The present case has arisen from the impugned order dated 10.12.2020 wherein the learned Superintending Canal Officer had dismissed the appeal filed by the petitioners against the impugned order dated 15.01.2020 passed by learned Divisional Canal Officer. It has been

contended by counsel for the petitioners that the petitioners are owner in possession of the Khasra No.47//13/1, 13/2, 24 and 47//13/2 min, 18, 23/1/2 situated within the revenue limits of Village Lehra Sondha, Tehsil Nathana, District Bathinda. He submits that private respondents filed an application to the Divisional Canal Officer, Bathinda for providing them paid khal through the land comprising in Khasra No.47//13/1-13/2 which belongs to the petitioners. He submits that the respondents are owner in possession of the land comprising Khasra No.47//3-4-5-6-7-8-14-15-16-17. He submits that in the map, water course has been shown in between common watt of Khasra No.47//9-12 and proposed watercourse A-B has been shown in Khasra No.47//13/1. The length of which is 40 karams. He has submitted that in case khal is provided to respondents through Khasra No.47//8, it would enter in Khasra No.47//14 and it would be straight from existing khal Khasra No.47//9/12. He has submitted that the learned Divisional Canal Officer, Bathinda without appreciating the evidence of the petitioners passed the order dated 15.01.2020. He submits that aggrieved by the same, the petitioners filed an appeal before the Superintending Canal Officer, Ludhiana however, learned Appellate Court also fell in error in dismissing the appeal without appreciating the evidence on record. He has drawn the attention of this Court to the site plan attached with the petition as Annexure P-4.

Learned counsel for respondents No.4 and 5 has however, opposed the submissions made by learned counsel for the petitioners and has submitted that the impugned orders have been passed on the basis of the revenue record produced and after having inspected the site, he has submitted that the sanction of the khal from A to B as shown in the map

would not prejudice the efforts of the parties as Khasra No.13 is owned by two owners including the petitioners. He submits that the khal AB would run from the land of both the owners. He has submitted that the respondents have no other source of water except the present one. He has submitted that even otherwise shifting of this watercourse to any other place would prejudice the respondents as there is a difference in the level of the land. He has submitted that the canal authorities have passed very reasoned order for the better irrigation of both the petitioners and the respondents. This Court had summoned the Zileadar. In pursuance to the same, Mr. Vikramjit ARC, Zileadar is also present in the Court.

Learned State counsel has submitted before this Court that the impugned orders have been passed keeping in view the topography of the land and the revenue record. The Officer present has submitted that before passing the impugned order, the site was inspected and the record was duly perused. He has submitted that as the level of the land of the respondents is uneven hence, in the existing situation, the watercourse from A to B is most feasible for the better irrigation of respondents and the same would not even prejudice the petitioners.

This Court has heard the submissions made by counsel for the parties and the officer present in the Court at length. On interaction with all the parties, it has been found that counsel for the petitioners had fairly submitted that he had no objection for providing this water channel to the respondents but his only grievance is that his land should not be dissected.

Learned counsel for respondents No.4 and 5 has also fairly submitted that the whole expenses for making the arrangement of the watercourse would be borne by him under the supervision of the canal authorities.

The grievance raised by both the sides have been duly heard with the assistance of the officer present in the Court. On hearing the proposal which has been given to the parties at the place A to B, instead of digging watercourse, the underground pipe can be laid so as to redress the grievance of the petitioners and that of the respondents as well. Both the petitioners and respondent No.4 are also present in the Court. Both the sides on appreciating the proposal has fairly accepted the proposal of laying down the underground pipe at the place AB.

The officer present in the Court has submitted that they would provide the necessary technical assistance for laying down this pipe and thus, both the parties have arrived at the compromise that instead of digging the khal from point A to B an underground pipe would be laid down. It has been submitted that presently, the crop is standing at this place and thus, the process for embedding the underground pipe would be carried out only after harvesting of this crop which will be normally due in the month of April, 2024. Thus, the present petition is disposed of in view of the agreed position between both the sides. The petitioners would allow respondents No.4 and 5 to lay the underground pipes from point A to B immediately after harvesting of the crop standing in the fields. The respondent-canal authorities would provide their necessary assistance in carrying out the work of laying down of the underground pipes. As undertaken by respondent No.4, the cost of embedding of this

underground pipes would be borne by him. Thus, the impugned orders dated 15.01.2020 and 10.12.2020 are modified accordingly. The present petition is disposed of in view of the agreed position between both the sides. The parties would be at liberty to pursue their further remedies in case any further cause of action accrues to them.

12.12.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No