

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

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CWP-7882-2022 (O&M).
Date of Decision: 17.02.2023.

BALBEER SINGH AND OTHERS

..Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

.. Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

PRESENT Mr. H.S. Saini, Advocate,
for the petitioners.

Ms. Niharika Sharma, AAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

The instant writ petition has been filed for seeking issuance of directions to the respondents not to dig out the additional drain from the fields of the petitioners in the absence of any notification, Government proposal or technical report. A further direction was sought to demarcate the drain land and to remove the unauthorized occupation of the drain.

Reply by way of an affidavit of Ramandeep Singh Bains, Executive Engineer, Drainage Division, Patiala, on behalf of respondents No.1 to 4 filed today in the Court is taken on record. A copy thereof has been furnished to the learned counsel for the petitioner. The relevant extract of the reply reads as under:-

“3. That at very outset it is humbly submitted here that neither such drain is bring dug by the respondents nor any proposal or any such proceedings are being initiated to dig the drain.

4. *That the petitioners have already filed Civil Suit No. 743 of 2022 before the Civil Judge Junior Division -1 Patiala with same set of contention as raised through the instant writ petition which have been opposed by the respondent department on the ground that no proposal with regard to dig out the drain from the fields of the petitioner is under process or proposed to be processed till date.*

5. *That the same is still pending and not decided by the Hon'ble Court as such no cause of action has been accrued to the petitioners to file the present writ petition before this Hon'ble when the contention of the petitioner had already been countered before the Civil Judge Junior Division -1 Patiala.*

6. *That it is submitted that after coming into the notice, the alleged unauthorized occupation on the 'Shekhupura-Adaltiwala drain', best efforts were made out by the answering respondent to evict the same at earliest and it was the efforts of the answering respondent that vide its letter Endst. No. 32/Peshi/P.C. 3 dated 27.01.2021, the District Magistrate, Patiala deputed the "Tehsildar Dhudhan Sadha" as dutymagistrate for taking the possession of the land in dispute. Also, in reference with the above letter, Sub Division Magistrate vide letter No. 102/Peshi dated 11/04/2022 (Annexure R-1/T) directed the 'Tehsildar Dhudhan Sadhan' to make the necessary arrangement to hand over the possession of the land in dispute to the respondent department on 12/04/2022. Thereafter, on 19.04.2022, the Tehsildar, in assistance with the local police party, Namberdar of the village and in the presence of the respectable of the locality the possession of the land in dispute was taken and handed over the same to the respondent department (Copy of the possession proceeding is annexed as Annexure R-2/T). As of now, unauthorized possession over*

Shekhupura- Adaliwala drain' has been vacated after proper demarcation and the drain GOVT egd has been excavated according to its design. (latest photographs of the drain are enclosed as Annexure R-3). The bed width of 'Shekhupura- Adaltiwala drain' varies from 20 feet outfall points (RDO) to 10 feet at the start of the drain, the width of the acquired land is 66 feet whereas bed width is 20' and top width is average 34' out of total 66 feet qua which is not inunauthorized occupation. Also there is regular maintenance of the 'Shekhupura-Adaltiwala drain' is being carried out by the respondent department every year before the rainy season. The alleged pond which is situated in the khasra no. 642 has no connection with the respondent department.

That in view of the submission made above; the present writ petition devoid of any merit is liable to be dismissed.”

It is evident from the perusal of the above that so far as the first grievance of the petitioners about the drain being constructed through their land is concerned, the same does not survive any further since the drain has not been dug through the land holding of the petitioners.

So far as the second issue of demarcation of the land and unauthorised occupation of the drain is concerned, steps have already been undertaken and the eviction proceedings had been initiated. The possession of the land in dispute was taken over by the respondent Department and the unauthorised possession over the drain has been got vacated after proper demarcation.

In views of aforesaid stand of the respondent State, learned counsel for the petitioners submits that the present petition has been rendered infructuous.

Disposed of as having been rendered infructuous.

February 17, 2023.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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