

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

CWP No.14383 of 2023

Date of decision : 27.07.2023

Roshan Lal

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Shubham Thakur, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

Present writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the orders dated 11.10.2021 (Annexure P-1), 04.04.2022 (Annexure P-2) and 17.11.2022 (Annexure P-3).

It has been contended by learned counsel for the petitioner that petitioner and respondent No.4 are the family members as father of petitioner was brother of respondent No.4. Thereafter, Chhabila Ram and respondent No.4 mutually separated by family partition in 1965. After the death of their father, the petitioner and his brother, namely, Pawan, became the owner of land of their father Chhabila Ram. The partition of their land was done according to the possession of both of them and the

same was entered into civil record in the year 2014. It has been submitted that respondent No.4 filed a petition before the Deputy Collector praying for fixing his warabandi after the warabandi of father of petitioner. Learned Deputy Collector accepted the petition filed by respondent No.4 vide his order dated 11.10.2021. He submits that aggrieved by the same, petitioner filed an appeal before the Divisional Canal Officer, however, the same was illegally dismissed by the Divisional Canal Officer vide his order dated 04.04.2022. Petitioner further challenged the same by way of filing the revision petition before the Superintendent Canal Officer. However, the Superintendent Canal Officer also failed to appreciate the facts and circumstances of the case in view of the legal proposition and thus, illegally declined the same vide his order dated 17.11.2022. He has vehemently submitted that the respondents-authorities below have passed the impugned orders without assigning any reason and the same being cryptic are unsustainable in the eyes of law. He submits that prior to the formal division of the land, this was a joint property, which was divided by way of family partition. He submits that there is a lined water course in the land of respondent No.4 and the same could be used for irrigation. However, the warabandi has been changed through the Kacha canal, which is in the land of petitioner. He submits that view taken by the respondents-authorities is totally unsustainable in the eyes of law and thus, deserves to be set aside.

After hearing learned counsel for the petitioner and perusing the material on record, it is apparent that petitioner and respondent No.4

earlier owned a joint land in 1965. Father of petitioner and respondent No.4 mutually separated and thereafter, petitioner and his brother became the owner of land owned by their father Chhabila Ram. Thereafter, the land of petitioner and his brother was also partitioned as submitted before this Court, which was entered in the civil record in 2014. The dispute in hand arose after their partition as is evident from the statement of respondent No.4 as recorded by the learned Superintendent Canal Officer that in 2014, they got their land divided and in that division, neither there was any change in the killas nor there was any change in the outlet of water course. Since 1965, he had been irrigating his fields through the water course and there was no new water course. However, after the death of Chhabila Ram, the dispute arose. It has been submitted that land of petitioner and his brother, namely, Pawan abuts the nakka and hence, as per the factual aspect, his land abuts thereafter. The authorities perused the revenue record and map of the site. On the perusal of the record and submissions made, the case of respondent No.4 found to have merits and thus, the same was accepted. The petitioner availed the statutory remedies of filing the appeal and revision and the record have been accordingly perused but the same were rejected. There are concurrent findings by all the respondents-authorities against the petitioner.

The facts and circumstances of the case have been duly appreciated and thus, in the considered opinion of this Court, this Court

finds no perversity in the decision arrived at by the authorities below and hence, the present petition, being devoid of any merit, is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

27.07.2023

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