

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.26819 of 2017
Date of Decision : 21.09.2023

Nidhan Singh

..... Petitioner

Versus

Chief Canal Officer, Bhakhra Water Services Unit,
Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Manjeet Singh, Advocate
for the petitioner.

Ms. Upasna Dhawan, AAG, Haryana with
Mr. Dheeraj Kairon, SDO (Rajound Irrigation Department).

Mr. Gaurav Mohunta, Advocate
for respondent No.5.

RAJESH BHARDWAJ, J. (Oral)

Present writ petition has been filed for setting aside the impugned order dated 24.10.2017 (Annexure P-11) passed by respondent No.1; impugned order dated 15.09.2015 (Annexure P-9) passed by respondent No.2; impugned order dated 12.06.2015 (Annexure P-7) passed by respondent No.3 and the impugned order dated 30.01.2015 (Annexure P-5) passed by respondent No.4 as the impugned orders have been passed by the authorities below without appreciating the facts in proper perspective and against the settled proposition of law. Further prayer has been made for staying the operation of impugned orders dated 24.10.2017 (Annexure P-11), 15.09.2015 (Annexure P-9), 12.06.2015 (Annexure P-7)

and 30.01.2015 (Annexure P-5) during the pendency of the present petition.

It has been contended by learned counsel for the petitioner that after the construction of Rajound Minor, the respondents authorities felt requirement for chakbandi/construction of new outlets and shifting of the existing outlets on Rajound Minor. Thus, the authorities prepared a scheme proposing sanction of outlet at RD-5950-R, Rajound Minor for an area of 350/341 acres after transferring 144/140 acres from O/L 60628-R and 206/201 acres area from O/L 49219 of Rajound Distributory. On 30.05.2008, RD-5950-R was sanctioned on Rajound Minor on the common line of Rect. 51 X 68 for better irrigation. He submits that in 2015, respondent No.5 filed an application before respondent No.4-Sub Divisional Canal officer, Rajound Water Services under Section 24 of the Haryana Canal and Drainage Act, 1974 (for short 'the Act') for restoration of the water course, which existed along southern side of Killa Nos.21 and 22 of Rect. No.52, Hadbast No.71, village Mandwal, Sub Tehsil Rajound, District Kaithal. He submits that the petitioner appeared in the same and specifically denied having dismantled water course as prayed for restoration. He submits that respondent No.5 was receiving water for irrigation of his land through a sanctioned water course and thus, there was no requirement for him to get water through the water course A-B. He submits that respondent No.4 accepted the application vide order dated 30.01.2015 while observing that the water course was permanent water course running at site since 2008 which came into existence by mutual consent of the share holders at the time of chakbandi of the outlet RD-

5950-R. He denied having made any compromise as observed by respondent No.4 and thus, submitted that as there was no water course A-B, hence, there is no question of dismantling the same. He submits that the appeal filed by the petitioner under Section 24(4) of the Act was dismissed vide order dated 12.06.2015. He submits that aggrieved by the same, the petitioner filed the revision petition before respondent No.2 i.e. Superintending Canal Officer wherein he specifically contended that there was no water course A-B alongside Killa Nos.21 and 22, Rect. No.52. However, without considering the same, respondent No.2 dismissed the same vide order dated 15.09.2015. He submits that it has been wrongly observed by respondent No.2 that there is no alternate source of canal irrigation to the land of respondent No.5 except the water course in question. It has been submitted that aggrieved, the petitioner filed appeal before respondent No.1-Chief Canal Officer challenging the orders dated 30.01.2015, 12.06.2015 and 15.09.2015 passed by respondents No.2 to 4 respectively. However, the Chief Canal Officer also failed to consider the facts and circumstances of the case and the law settled and thus, illegally declined the same vide his order dated 24.10.2017. He submits that the impugned orders dated 24.10.2017, 15.09.2015, 12.06.2015 and 30.01.2015 being illegal and arbitrary, deserve to be set aside.

Notice of motion was issued in this case and respondents also appeared through their counsels.

Learned counsel for respondent No.5 has vehemently opposed the submissions made by learned counsel for the petitioner. He submits that water course at A-B existed since chakbandi, which was illegally dismantled by the petitioner and hence, respondent No.5 filed the petition

for restoration of the same. He submits that the respondents-authorities verified the record and inspected the site and thus, finding the existence of water course, rightly accepted the petition filed by respondent No.5 and hence, restored the same. He submits that the appeal and revision filed by the petitioner were also dismissed finding no merit in the same. He submits that there are concurrent findings of all the authorities against the petitioner and thus, the same suffers from no illegality whatsoever. He submits that respondent No.5 has no other source of water as the only source of water available to him has been dismantled by the petitioner. He submits that the petition being devoid of any merit, deserves to be dismissed with costs.

This Court had summoned the concerned Officer and in pursuance to the same, Mr. Dheeraj Kairon, SDO, Rajound Irrigation Department is present in person in Court today.

It has been submitted by learned State counsel that the impugned orders suffer from no illegality as the same are passed after verifying the record and visiting the site and it was established that the water course demolished by the petitioner was sanctioned Khal which existed since long and thus, the same was rightly restored in accordance with the provisions of the Act.

The Court has interacted with the Officer, who is present in Court today.

The officer present in Court has submitted that the Khal existed since 2008 when the chakbandi was done. He submits that it was a sanctioned Khaal which was illegally demolished by the petitioner. He

has further clarified that except this water course, respondent No.5 has no other alternate water course for irrigating of his land.

I have heard learned counsel for the parties and perused the record.

After hearing learned counsel for both the parties and the officer concerned and perusing the record, it is apparent that respondent No.5 had filed the application under Section 24 of the Act for restoration of the Khal. As is evident from the record, water course existed since 2008 when the chakbandi was done. However, from the record and the site inspection, it was established that the petitioner had dismantled the same illegally. There is no other alternate water course available to respondent No.5 as is evident from the submissions made by the concerned SDO before this Court and record produced.

In view of the considered opinion of this Court, there are concurrent findings of all the respondents authorities against the petitioner which cannot be termed as illegal or against the law. Thus, in the over all facts and circumstances of the case, this Court do not find any merit in the present petition and the impugned orders dated 24.10.2017 (Annexure P-11), 15.09.2015 (Annexure P-9), 12.06.2015 (Annexure P-7) and 30.01.2015 (Annexure P-5) do not suffer from any illegality or perversity. Resultantly, the present petition being devoid of any merit is hereby dismissed.

21.09.2023
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(RAJESH BHARDWAJ)
JUDGE

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