

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

**CWP No.29964 of 2022 (O&M)
Date of Decision: 15.11.2023**

Nachhatar Singh and another

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. B. S. Jattana, Advocate
for the petitioners.

Mr. Alankar Narula, AAG, Punjab.

Mr. Vijay Sharma, Advocate
for respondent No.4.

RAJESH BHARDWAJ, J.

CM-2139-CWP-2023

Instant application has been filed for placing on record
photocopy of site plan dated 10.01.2023 (Annexure P-8).

For the reasons recorded in the application, the same is
allowed and photocopy of site plan is ordered to be taken on record as
Annexure P-8.

CWP-29964-2022

Present writ petition has been filed for quashing the
impugned order dated 20.07.2022 (Annexure P-5) passed by respondent
No.3 vide which the alignment of water course has been changed while

not considering the fact that a water course is already in existence parallel to the water course ordered to be made and the impugned order dated 11.10.2022 (Annexure P-7) passed by respondent No.2 vide which appeal filed by the petitioners has been dismissed being wrong, unjust, arbitrary and without inspecting the spot and without following the settled proposition of law. Further prayer has been made for directing respondents No.1 to 3 to stay the operation of impugned order dated 20.07.2022 (Annexure P-5) passed by respondent No.3 and impugned order dated 11.10.2022 (Annexure P-7) passed by respondent No.2 during the pendency of the present petition.

It has been contended by learned counsel for the petitioners that the petitioners are the owners of Killa No.19, 21 & 22 of Muraba No.65 and later on vide sale deed dated 14.07.2022, they also purchased Killa No.65//12 (6-0) and respondent No.4 is the owner of Killa No.11 of Muraba No.65. He submits that one water course is already going on from northern boundary of Killa No.22 which further goes upto Killa No.11 at their eastern boundary. The another water course is running at the southern boundary of Killa No.12 in between Killa Nos.12 & 19 which further goes through eastern boundary of Killa No.11 upto Killa No.9. He has submitted that the dispute between the petitioners and respondent No.4 is regarding the water course going from the northern boundary of Killa No.22 and eastern boundary of Killa No.11 & 20. He submits that regarding the same respondent No.4 filed an application before respondent No.3 that the petitioners had damaged the said water course and the same be restored. He

submits that respondent No.3 vide order dated 01.12.2021 accepted the application by restoring the water course. Aggrieved by the same, the petitioners filed an appeal and during the pendency of the same, the parties entered into a compromise. He submits that the parties agreed with the terms and conditions of the compromise arrived and respondent No.4 also appeared before the Court. He has submitted that the petitioners had also appeared and prayed that they had agreed if the water course already running from northern boundary of Killa No.65//19 be attached with the land of respondent No.4 and further ordered that water course at northern side of Killa No.65//22 and eastern boundary of Killa No.20 be cancelled. He submits that as the water course was already going through the northern boundary of Killa No.65//19, then there was no need to give another water course parallel to the above mentioned water course. But respondent No.3 vide impugned order dated 20.07.2022 directed to make another water course through the northern boundary of Killa No.65//19 by changing the alignment of water course. Aggrieved by the impugned order dated 20.07.2022, he submits that the petitioners filed an appeal before respondent No.2. He has submitted that respondent No.2 illegally dismissed the same vide impugned order dated 11.10.2022 without considering the fact that if the impugned order dated 20.07.2022 passed by respondent No.3 is executed, then two water course from the land of the petitioners would go parallel to each other. He submits that without considering the terms and conditions of the compromise arrived at between the parties, the Respondents Authorities passed the impugned order and

thus, the same being unsustainable in the eyes of law, deserves to be set aside.

Notice was issued in this case and the respondents have filed their respective replies. This Court also directed the Zileadar to be present in the Court. The Zileadar was directed to visit the site and file his status report by way of an affidavit after visiting the site.

Mr. Jatinder Singh, Zileadar, Lehal Canal Division, Patiala is present in person in Court today. He has submitted his status report after visiting the site on 09.11.2023. It has been submitted in the affidavit that at the site, it was found that two parallel water courses were running together. The water course A is running on southern boundary of Killa No.65//12. As per record, it is sanctioned water course in Warabandi passed by the Deputy Collector, Lehal Canal Division vide order dated 27.02.2008. The other water course B is running on northern boundary of Killa No.65//19 and as per the record, it is also a sanctioned water course vide order dated 11.10.2022 of respondent No.2. He has submitted that the contentions raised by learned counsel for the petitioners are totally without any basis as the water course have been sanctioned as per the terms and conditions of the compromise arrived at between both the parties.

Learned counsel for the State has also submitted that the submissions made by learned counsel for the petitioners are totally misconceived and thus, the impugned orders suffer from no perversity. Hence, the present petition deserves to be dismissed.

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

After hearing learned counsel for the parties and the officer present in the Court and perusing the record produced by the officer, it is apparent that the mutual compromise dated 19.01.2022 was arrived at between the parties which is perused and both the sides have been duly heard. The necessary alignment has been carried out in accordance with the compromise and the statutory provisions of the law. Against the order passed by the Divisional Canal Officer dated 20.07.2022, the appeal was filed before the Superintending Canal Officer. The parties were again heard and the record was perused. It has been reaffirmed that the change of alignment of the water course under Section 13-B has been done as per compromise. It has been observed that the petitioners had purchased area of 65//12 and demanded the water course from this. It was found that the water course was already running therein between 65//19 and 65//12 and the petitioners were the owner of the land on both the sides and thus, the water course running did not adversely effect anyone. The Ziledar had also visited the site and placed on record the status report dated 10.11.2023.

Thus, this Court finds no infirmity in the impugned order passed and hence, the present petition being devoid of any merit is hereby dismissed.

15.11.2023

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Whether speaking/reasoned

Whether reportable

(RAJESH BHARDWAJ)

JUDGE

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Yes/No

Yes/No