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

CWP No.4675 of 2024

Date of decision: 09.04.2024

Krishan Lal

..... Petitioner

versus

**Superintending Canal Officer, Ferozepur Canal Circle,
Ferozepur and others**

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Piyush Setia, Advocate
for the petitioner.

RAJESH BHARDWAJ J.

1. Present writ petition has been filed for setting aside/quashing the order dated 27.09.2022/05.01.2023 (Annexure P-2) passed by Divisional Canal Officer/respondent No.2 and order dated 23.08.2023 (Annexure P-5) passed by Superintending Canal Officer/respondent No.1 whereby the application of respondents No.3 & 4 was wrongly and illegally got allowed and new water course was carved out from the land of petitioner without following the procedure laid under Section 30A & 30B of the Northern India Canal and Drainage Act, 1873. Further prayer has been made for staying the operation of impugned order dated 27.09.2022/05.01.2023 (Annexure P-2) passed by Divisional Canal Officer/respondent No.2 and order dated 23.08.2023 (Annexure P-5) passed by Superintending Canal Officer/respondent No.1 during the

pendency of present writ petition and for restraining the private respondents or any associates from interfering in the lawful, established and peaceful possession of the petitioner during the pendency of the present writ petition.

2. It has been submitted by learned counsel for the petitioner that respondent No.3 filed an application dated 13.06.2019 for providing the water course for his land on the basis of appropriate compensation. He submits that the respondent-Canal Authorities made investigation on the same and on finding the application filed by respondent No.3 to be genuine, the Zileadar, Jandwala and Sub Divisional Officer, Abohar recommended the application filed by respondent No.3 for grant of water course on the basis of compensation. He submits that without considering the objections made by the petitioner, respondent No.2 i.e. Divisional Canal Officer illegally accepted the application filed by respondent No.3 by passing the order for granting the water course from point A to B from the land of the petitioner vide impugned order dated 05.01.2023. Being aggrieved, the petitioner assailed the same by way of filing an appeal before respondent No.1. However respondent No.1 i.e. Superintending Canal Officer again without appreciating the submissions made by learned counsel for the petitioner, dismissed the appeal filed by the petitioner vide impugned order dated 23.08.2023. He has submitted that the petitioner had specifically submitted before the respondent authorities that by providing the water course to respondent No.3, the land of the petitioner would be bifurcated into two parts and further there already existed a water course along with the path and the same could have been extended

to the land of respondent No.3 but the same has not been taken into consideration by both the authorities and thus, the impugned orders passed are totally beyond the evidence on record and the law settled. He submits that the impugned orders being arbitrary and cryptic, deserve to be set aside.

3. Heard.

4. On hearing learned counsel for the petitioner and perusing the record, it is apparent that on filing of the application by respondent No.3, the same was investigated and the reports were received. It was found that there was no water course available for respondent No.3 for irrigating his land. Hence there being no water course at the spot, the irrigation of respondent No.3 was stopped and he was suffering a loss in his cultivation. Thus finding the application filed to be genuine, the same was approved under Section 30-D of the Northern India Canal and Drainage Act by the Divisional Canal Officer vide his order dated 05.01.2023 subject to the condition that respondent No.3 would pay the cost 1.5 times or 1.5 times land of the water course to the petitioner. In the appeal filed, the learned Superintendent Canal Officer re-appreciated the evidence on record and heard both the sides. Finding no merit, the appeal was dismissed, however it was reiterated that the water course would be restored from point A to B subject to the condition as laid by the learned Divisional Canal Officer by giving land 1.5 times to the petitioner in lieu of the land falling under the water course or he would be bound to give the value of the same.

5. On the appreciation of the impugned orders passed, this Court finds the view taken by both the Courts below to be genuine and in the interest of justice. Thus finding no merits in the petition, both the impugned orders dated 05.01.2023 and 23.08.2023 are upheld and the present petition is dismissed. However it is being clarified that the water course would be restored from point A to B subject to the condition as laid down by both the Courts below by giving the land 1.5 times to the petitioner or paying the cost at the rate of 1.5 times. The respondent authorities are directed to ensure that respondent No.3 would comply with the condition before restoring the water course from point A to B.

(RAJESH BHARDWAJ)
JUDGE

09.04.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No