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THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.3863 of 2024 (O&M)
Date of Decision: 22.05.2024

Jasram Singh and others
..... Petitioners

Versus

State of Punjab and others
..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. R. V. S. Chugh, Advocate
for the petitioners.

Mr. Navneet Singh, Sr. DAG, Punjab.

RAJESH BHARDWAJ, J.

1. The petitioners have approached this Court praying for setting aside the impugned action of the respondents in carving out the Canal Minor on Moonak Branch Sub Minor-1 from village Salemgarh towards village Surjan Bhaini and Moonak as the same is being done without following the prescribed procedure as enshrined under the Northern India Canal and Drainage Act, 1873 and without making any provision of proper drainage of extra water from the tail which is purposed to end in the fields of the petitioners. Further prayer has been made for directing the respondents to lay underground pipelines for the



supply of Canal water to the villages Surjan Bhaini, Salemgarh and Moonak.

2. Learned counsel for the petitioners has submitted that the petitioners belong to village Salampur, Surjan Bhaini and Moonak. These villages are flooded affected areas. He submits that prior to the year 1988, there existed Canal Minor on Moonak Branch Sub Minor 1 from village Salemgarh towards village Surjan Bhaini and Moonak. Due to the flood, the crop and property of the petitioners were damaged. He submits that no Canal Minor ever existed at the spot and the villagers of the area cultivated their land by tubewells which was earlier under the said Canal Minor. He submits that some villagers have even constructed their houses in the land which was earlier under the said Canal Minor. He submits that in the revenue record, the said Canal Minor was shown to have existed from Mogha outlet 18730/L to village Salemgarh, Mogha outlet 20605-L&R to village Surjan Bhaini and Mogha outlet 24655/L&R to village Moonak as it existed prior to the year 1988. He submits that this Canal Minor was washed away due to heavy floods and hence the petitioners as well as other residents of the village used to irrigate their fields by installing the tubewells. He submits that the villagers made a representation dated 06.03.2023 before respondent No.4 demanding that the canal water was essentially required by the farmers for irrigating and cultivating their crops, however the same be supplied through pipelines and with proper drainage of extra water in Ghaggar rivers through pipelines. He submits



that the petitioners along with co-villagers on coming to know that the official respondents are trying to restore the above stated Sub Minor 1 of Moonak Branch, they filed another representation dated 17.07.2023 to respondent No.4 stating therein that since the tail of this Canal Minor ends in between the fields of the farmers and as there is no provision of drainage of extra water, the same would damage the land, crops and residential house of the petitioners and other villagers. He submits that the Canal Sub Minor No.1 of Moonak Branch is not in existence at the spot and the petitioners and co-villagers have sown their crops. He submits that it is evident that restoration work of this Canal Minor initiated by the respondent authorities is totally arbitrary and illegal as the same would cause damage to the petitioners and the villagers. Thus he submits that the respondent-State be directed to stop the work of restoring this Canal Minor. He also submits that the respondent authorities be directed to lay underground pipeline for supply of canal water to the villagers Surjan Bhaini and Salemgarh and Moonak.

3. The Court had issued notice and summoned the officer concerned. In pursuance to the same, Mr. Amritpal Singh, SDO, Nabha came present in the Court on 18.03.2024, who explained the scheme initiated by the State. Reply/status report by way of affidavit of Mr. Navreet Singh Ghuman, Executive Engineer, Lehal Canal Division, I.B, Patiala, Department of Water Resources, Punjab dated 16.03.2024 and 22.05.2024 have been filed.



4. Learned State counsel has opposed the submissions made by learned counsel for the petitioners and drawn the attention of this Court to the status report filed by the State. It has been submitted that the petitioners have filed the present petition with clandestine motive. He submits that Sub Minor 1 of Moonak Branch off takes at RD 15674/L of Moonak Branch and initially existed from RD-0 to RD-24655/Tail at village Moonak. This Sub Minor was constructed to facilitate Canal Irrigation in eight villages of District Sangrur. In the revenue record, the said Sub Minor 1 is shown to be in existence up to RD-24655/Tail at village Moonak. He submits that Sub Minor 1 used to run on the Government land and the land of Sub Minor 1 from RD-0 to Rd-24655/Tail belongs to the Government (Department of Water Resources, Punjab). He submits that the Government is making strenuous efforts to promote the use of Canal Water for irrigation purposes and further to make Canal Water available to the farmers keeping in view the increasing depletion of ground water table day by day. Hence for enhancing the crop production and in view of ground water depletion, the revised project estimate for relining of Moonak Branch system that includes the relining of Sub Minor 1 of Moonak Branch along with revival of Sub Minor 1 from RD-18730 at village Salemgarh to RD-24655/Tail at village Moonak was sanctioned by the Punjab Government vide order dated 07.07.2023. He has submitted that the Government is competent and entitled to approve any project & execute any construction in public interest on the Government land.



The said project is sanctioned by the Punjab Government from head to tail reach of Sub Minor 1 in public interest to provide canal water benefits to the farmers/land owners which shall enhances the crop production and further reduce the use of ground water as the depletion of the ground water is increasing badly day by day. He has submitted that the due procedure has been followed by the respondent Department for executing the said project. He vehemently contended that on granting the sanction, the survey of the area was conducted and final design in the form of L-section was sanctioned by the Competent Authority on 11.09.2023. Thereafter the detailed estimate was prepared and the same has been sanctioned by the Competent Authority on 12.10.2023. The open tenders were floated online and the work was allotted to the lowest bidder on 29.11.2023. He submits that 95% of the project work including the relining of Sub Minor 1 of Moonak Branch has been completed, however the remaining 5% of the project is pending due to the land of Sub Minor 1 of Moonak Branch having been encroached upon by the petitioners. He has submitted that the petitioners have misled this Court by giving irrelevant provisions of the Northern India Canal and Drainage Act, 1873 (hereinafter referred to as 'the Act'). He submits that the project of relining of Moonak Branch system includes the relining of Sub Minor 1 of Moonak Branch along with the revival of Sub Minor 1 from RD-18730 at village Salemgarh to RD-24655/Tail at village Moonak. He submits that the revival of Sub Minor 1 from RD-18730 at village Salemgarh to RD-



24655/Tail at village Moonak does not fall under the new proposal regarding which the draft scheme was needed to be prepared and the proceedings are required to be initiated under Section 30 of the Act as the Sub Minor 1 was already in existence on the Government land and is only required to be revived in public interest. He submits that a single house at RD-18770 of Sub Minor 1 was found that Government land of Sub Minor 1 of Moonak branch to have been encroached. All possible efforts have been made to avoid demolition of any part of the said houses and the Moonak Branch was re-routed to avoid any demolition of that house.

5. It has been contended by learned counsel for the State that the petitioners had encroached the land of Sub Minor 1 of Moonak Branch and are trying to continue their encroachment in the garb of filing this petition. He has drawn the attention of this Court to the status report filed wherein it has been submitted that all the necessary precautions have been taken so as to avoid any damage to the land or crop of the villagers. He submits that as per the design data, the tail end of this canal would get a maximum 4.34 cusecs of canal water which would be distributed amongst the share holders in 1425 acres of agricultural land and therefore, the question of flooding is totally misconceived. He further submits that the respondent authorities had planned to connect the Sub Minor 1 of Moonak Branch at RD-10500 with a pond in village Hamirgarh to drain any excess water in case of heavy rainfall or any other eventuality of this kind. He has reiterated



that the petitioners are the encroachers of the land of Sub Minor 1 of Moonak Branch and are trying to continue with the same by every means. It has been submitted that the Government has already invested the heavy amount for completion of this project and had completed 95% of the same but the remaining 5% work is held up because of the encroachment made by the petitioners. He has submitted that in revival of this canal, the due procedure has been followed and the same is being carried out in the larger public interest. He submits that the petition filed is totally frivolous and thus, the same deserves to be dismissed.

6. Heard.

7. On hearing learned counsel for the parties and perusing the record, it is apparent that the respondent authorities have initiated the project for revival of the Canal as mentioned in detail above. The Court has interacted with the officer, who came present before this Court and explained the details of the project. The status report filed further reveals that the project has been initiated in the larger public interest so as to provide the canal water to the maximum of the farmers as the level of the ground water is depleting. As evident from the record, the Canal Minor of Moonak Branch Sub Minor 1 already existed. However the part of the land of this canal was encroached upon by the petitioners and others. It has been submitted before this Court that 95% of this project is already completed but the remaining 5% is held by due to the encroachment made by the petitioners.

Though the wheat crop was sown by the petitioners, however it has been submitted before this Court that the same is now already harvested. It has been submitted in the status report that the respondent authorities have adopted the due procedure for discharge of the flood water so as to ensure that the land and crop of the villagers is not damaged. From the facts and circumstances brought to the notice of this Court, it is apparent that the project is being implemented as a public scheme in the larger interest of the public and thus, the public interest would always prevail upon the individual interest.

8. Thus, this Court finds no scope of interference in restraining the ongoing project. However the respondent authorities are directed to implement the scheme in accordance with the law.

9. Thus, the present petition is disposed of.

22.05.2024

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(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No