

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

CWP-7909-2024

Date of decision : 08.04.2024

Hardeep Singh

.....Petitioner

versus

State of Punjab and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Preetwinder Singh Dhaliwal, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for setting aside the order dated 02.02.2024 (Annexure P-5) passed by respondent No.2 and order dated 12.10.2023 (Annexure P-1) vide which the alignment of the watercourse has been changed from ABCD to AEFG wrongly and illegally.

As submitted by counsel for the petitioner, respondent No.4 filed the application before respondent No.3 contending therein that the watercourse shown in the site plan from Point ABCD has divided the tak of the respondent in two parts and thus, he is facing difficulty in irrigating his land and hence, the said watercourse be shifted to the point AEFG.

Notice was issued to the petitioner on the application filed. On hearing both the sides, respondent No.3 accepted the application filed by respondent No.4 and shifted the watercourse from Point ABCD to AEFG vide his order dated 12.10.2023. Being aggrieved, petitioner filed the appeal before respondent No.2.

Learned counsel submits that respondent No.2 without taking into consideration the contentions raised by counsel for the petitioner and

evidence on record, illegally dismissed the appeal filed by the petitioner vide his order dated 02.02.2024. Hence, being aggrieved, petitioner has approached this Court by way of filing the present petition.

Learned counsel for the petitioner has submitted that respondent No.4 had demolished the watercourse himself and due to that reason, the irrigation to the land of the petitioner was stopped but with the help of the police, the watercourse was restored on 06.04.2023. It is submitted that the respondent No.3 vide order dated 23.08.2022 ordered to reinstate the abovesaid watercourse to its original condition but respondent No.4 filed the appeal against the said order which was dismissed vide order dated 06.10.2022. This watercourse was reinstated on the Point AB with the help of the police on 06.04.2023. He submits that respondent No.4 had filed the writ petition before this Hon'ble Court which was dismissed as withdrawn on 18.07.2023 and after withdrawal of the petition, respondent filed the petition for the change of the alignment of the watercourse on the ground that his tak has been divided into two parts by concealing the facts that there is also approved passage between Khasra No.69//7 as shown in the site plan. He submits that the Gram Panchayat of Village Rai Khana passed the Resolution to reinstate the abovesaid passage vide Resolution dated 29.06.2023 and the application is also filed for demarcation of the abovesaid passage. Thus, the petitioner had submitted that changing of the alignment of watercourse would not serve the purpose of respondent No.4. It is submitted that the respondents-authorities did not consider the submissions made by the petitioner and thus, the impugned orders have been passed by ignoring the evidence on record and it is against the settled principles of law. He has submitted that changing of the watercourse is against the statutory provisions and thus,

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

Heard. On hearing counsel for the petitioner and perusing the record, it is evident that respondent No.4 filed the application praying for change of the alignment of the water channel, R.D. 122205/Left. On filing the application the verification was got conducted through Zileadar, Bathinda who submitted his report after perusing the relevant record. The site plan was drafted by the Patwari, Halqa and he conducted the spot inspection before submitting the report. Respondent No.4 demanded the shifting of the water channel on the ground that his land was being divided into two portion and thus, he suffered loss of the land. He has submitted that he was ready to provide two karams wide land on common ground line from Rectangle No.69//6/7, 68//10 owned by him. The change of the alignment was also to be treated only after getting paved water channel at the instance of respondent No.4. As observed by learned Divisional Canal Officer after construction of old channel, respondent No.4 would have no right on the said land and it would become the property of the canal department. Thus, subject to the conditions, the application filed by respondent No.4 was accepted for shifting of watercourse from Point ABCD to Point AEFG. The order was further assailed by the petitioner by way of filing the appeal before learned Superintendent Canal Officer. Notice was issued in the appeal filed before the Superintendent Canal Officer and both the parties were heard together and the record was re-appreciated. The statement of respondent No.4 was to the effect that they would provide paved water channel in the land bearing Khasra No.69//6/7 & 68//10 and his land may not be partitioned as per the consolidation rules which was duly considered by the learned DCO as well and thus, the order passed by learned DCO was upheld

subject to the undertaking given by respondent No.4. It is evident that both the authorities below have taken into consideration the complete facts and circumstances of the case and ensured that no prejudice is caused to either of the parties. Thus, there is a concurrent finding of facts by both the authorities below and thus, this Court does not find any scope of interference in the same. Resultantly, the petition being devoid of any merits is hereby dismissed.

08.04.2024

m. sharma

(RAJESH BHARDWAJ)
JUDGE

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