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

CWP No.10866 of 2024

Date of Decision: 20.05.2024

Raghbir Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

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

Ms. Upasna Dhawan, AAG, Haryana with
Mr. Puneet Sahni, DCO.

RAJESH BHARDWAJ, J.

1. Present writ petition has been filed for setting aside the impugned order dated 05.03.2024 (Annexure P-5) passed by respondent No.2, order dated 13.09.2023 (Annexure P-4) passed by respondent No.3 and order dated 05.06.2023 (Annexure P-1) passed by respondent No.4 vide which the application under Section 18(2) of Haryana Canal and Drainage Act has been allowed wrongly, illegally and against the provisions of law.

2. It has been submitted by learned counsel for the petitioner that the private respondents filed an application under Section 18(2) of the Haryana Canal and Drainage Act 29 of 1974 (hereinafter referred to



as 'the Act') for sanctioning of the water course E-F in the chak of outlet RD No.15059/L Gangeser Distributory in village Kurana, Tehsil Israna, District Panipat. He has submitted that though the petitioner and other co-sharers did not consent, however the learned Divisional Canal Officer i.e. respondent No.4 vide his order dated 05.06.2023 illegally sanctioned the water course on compensation basis from point E-F in Killa No.19//4 Eastern side at the Sourthern-Northern Dowl. Being aggrieved, the petitioner filed an appeal before respondent No.3 i.e. Superintending Canal Officer on 07.07.2023. He submits that without appreciating the arguments raised and the relevant record, respondent No.3 illegally dismissed the appeal filed by the petitioner vide his impugned order dated 13.09.2023. Still being aggrieved, the petitioner filed the revision petition before respondent No.2 i.e. the Chief Canal Officer. It was specifically contended that demand of the private respondents for sanctioning of the alignment of water course through his land was wrong and he had already given another water course to the private respondents through his land. It was further contended that no water course ever existed in the area for irrigation to the area of private respondents. However without appreciating the same, the learned Chief Canal Officer i.e. respondent No.2 illegally dismissed the revision petition filed by the petitioner vide his impugned order dated 05.03.2024. He has submitted that Sections 17 and 18 of the Act are applicable only where the scheme has to be framed for new outlet on the main canal or branch canal or an outlet with discharge of less than point 0.75 cusec water. However in the



present case, there was earlier a water course in the land and there was warabandi but the private respondents themselves demolished the water course and laid down the water pipeline which is still in existence. However ignoring the same, the water course has been sanctioned by all the three authorities on the premise that the respondents have no other water course, which is totally beyond the evidence on record. He has submitted that the impugned orders passed by the respondent authorities are against the evidence on record and the statutory provisions of the Act and thus being unsustainable in the eyes of law, deserve to be set aside.

3. Learned State counsel has opposed the submissions made by learned counsel for the petitioner.

4. The Court had summoned the Divisional Canal Officer along with the record to assist the Court.

5. Mr. Puneet Sahni, Divisional Canal Officer is present in person in Court today and has produced the site plan before the Court. He has apprised the Court that the main canal for irrigation is Gangesar Rajbah and the nakka as shown in the site plan is O/L-15059/L at point A. He has submitted that the water course runs from point B-C-F and the portion at E-F was restored. He has submitted that the argument raised by learned counsel for the petitioner that there is an underground pipeline from point B but the same is for carrying the tubewell water and not for the canal water. He has submitted that laying down of the pipe as contended by learned counsel for the petitioner is hardly sufficient for irrigation of the water by tubewell and the same has no relevancy for



carrying the canal water. He apprised the Court that the private respondents had no source of canal water and thus, the water course has been sanctioned by passing the orders which have been impugned by the petitioner. He has submitted that the impugned orders have been passed on the basis of record and as the respondents had no water course for the canal water, thus, there was no violation of the statutory provisions in passing the impugned order.

6. Heard.

7. On hearing learned counsel for the parties along with the concerned Officer present in the Court and perusing the record, it is evident that the private respondents had filed an application under Section 18(2) of the Act before the Divisional Canal Officer to sanction the alignment of water course E-F on the basis of compensation. The case was investigated and the scheme was prepared under Section 17 of the Act. On finding the application filed by the private respondents to be genuine, the sanction for alignment of the water course E-F on compensation basis was granted by the learned Divisional Canal Officer vide his order dated 05.06.2023. The appeal filed by the petitioner against the same was dismissed by the learned Superintending Canal Officer vide his order dated 13.09.2023. It was established from the record that there was no source of irrigation to the respondents except the water course E-F as depicted in the site plan produced by the learned Divisional Canal Officer present in the Court. The main thrust of argument of learned counsel for the petitioner is that there is an alternative course of water



through the pipe already embedded is found to be without any force as clarified by the Divisional Canal Officer concerned present in the Court.

8. There is no gainsaying that there are concurrent findings by all the authorities below in favour of the private respondents.

9. A Co-ordinate Bench of this Court in Satinder Pal Singh Vs. State of Punjab and others, 2009 SCC OnLine P&H 11188 has held that *the findings of the authorities below cannot be interfered unless perverse, it is settled law that this Court while exercising the jurisdiction under Article 226 cannot sit as a Court of appeal over the findings recorded by the authorities below. Both the Courts below have recorded their detailed findings.*

10. Thus, in the overall facts and circumstances of this case, this Court does not find any infirmity in the impugned orders passed by the authorities below. Hence, the present petition being devoid of any merit is hereby dismissed.

20.05.2024
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(RAJESH BHARDWAJ)
JUDGE

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