

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-20265-2016 (O/M)

Reserved on : 23.09.2024

Date of decision : 17.12.2024

Prithvi Singh

..... Petitioner

Versus

Superintending Canal Officer and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Sanjeev Gupta, Advocate
for the petitioner.

Mr. Rajneesh Chadwal, AAG Haryana.

Mr. J.S. Thind, Advocate
for respondent No. 4.

-. -

-. -

HARSH BUNGER, J.

1. Petitioner (Prithvi Singh) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 21.04.2016 (Annexure P-6), passed by learned Superintending Canal Officer, Bhakra Water Service Circle, Sirsa (in short 'SCO'). A further prayer has been made for restoring the order dated 24.02.2012 (Annexure P-3), passed by learned Divisional Canal Officer, Baruwali W/S Sub Division, Sirsa (in short 'DCO').

2. Briefly, the petitioner (Prithvi Singh) submitted an application dated 26.04.2011 (Annexure P-2), seeking restoration of the watercourse on the plea that he is a shareholder of outlet No. 28975-L,

Gigorani Distributary and the said watercourse was running since last 40 years, however, the same has been dismantled by one Laxman son of Shri Data Ram, Bhoop (respondent No. 4 herein) son of Shri Tota Ram, Krishan Kumar son of Shri Tota Ram and on account of that, irrigation to his area has been stopped.

2.1 Upon receipt of the aforesaid application by canal authorities, the matter was got investigated from the concerned Zileadar, who after the spot inspection, recommended the restoration of the watercourse in Rect./Killa No. 20//6-7/1 (northern side).

2.2 Upon notice being issued to the concerned parties, Laxman Singh appeared before the canal authorities and stated that the allegations levelled by the petitioner against him were totally false. It was further stated that the area of the petitioner was previously in the chak of outlet No. RD-31400-L Gigorani Distributary and now, he has transferred his area on this outlet No. RD-28975-L Gigorani Distributary. He opposed the prayer of the petitioner on the ground that he is a small shareholder and the demand of the petitioner cannot be allowed.

2.3 It appears that the learned SDCO, vide order dated 07.10.2011 (Annexure P-3), ordered for temporary restoration of the watercourse on the existing line 'AB', where it was running before demolition, for two crops only.

2.4 Thereafter, respondent No. 4 preferred an appeal against the order dated 07.10.2011 (Annexure P-3) before the learned Divisional Canal Officer, Nehrana Water Service Division, Sirsa (in short 'DCO'), which came to be disposed of, vide order dated 24.02.2012, by directing the restoration of the watercourse permanently. Thereafter, respondent

No. 4 (Bhoop Singh) preferred a writ petition (CWP-9811-2012) before this Court, which came to be disposed of, vide order dated 23.05.2012 (Annexure P-5), by granting liberty to respondent No. 4 to avail his remedy of appeal before learned SCO against the order dated 24.02.2012, passed by learned DCO.

2.5 It appears that respondent No. 4 (Bhoop Singh) availed his remedy before learned SCO, who vide his order dated 21.04.2016 (Annexure P-6), set aside the order dated 24.02.2012, passed by learned DCO.

3. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition before this Court for the relief(s), as notice hereinabove.

4. Upon issuance of notice of motion in the instant case, written statement has been filed on behalf of respondents No. 1 to 3 (official respondents), wherein, it is *inter alia* stated that the order dated 07.10.2011 was implemented at the spot and even period of two crops, for which the watercourse in question was temporarily restored vide order dated 07.10.2011, has already expired. A separate written statement has been filed on behalf of respondent No. 4 (Bhoop Singh), wherein they controverted the stand of the petitioner taken in the instant civil writ petition.

5. Heard.

6. In the present case, the petitioner had sought restoration of the watercourse on the plea that respondent No. 4 and others had demolished the same. The said plea of the petitioner was accepted by learned SDCO, vide order dated 07.10.2011 (Annexure P-3) by directing

restoration of watercourse temporarily for two crops only. Apparently, the order dated 07.10.2011 (Annexure P-3) was never challenged by the petitioner, but on an appeal being preferred by respondent No. 4 (Bhoop Singh) against the said order dated 07.10.2011 (Annexure P-3), learned DCO ordered for restoration of watercourse permanently, vide order dated 24.02.2012. However, on an appeal being filed by respondent No. 4 (Bhoop Singh) before learned SCO, the order dated 24.02.2012, passed by learned DCO, has been set aside by observing that when the area of the petitioner (Prithvi Singh) was not in the chak of outlet No. RD-28975-L Gigorani Distributary during 2010-11, then it cannot be said that the watercourse was running for the last twenty years. In effect, the order dated 24.02.2012 (Annexure P-3) passed by the DCO, directing restoration of water course permanently has been set aside.

7. In my considered view, once the watercourse in question was allowed to be restored temporarily for two crops only, vide order dated 07.10.2011 and said order was never challenged by the petitioner, the learned DCO could not have ordered restoration of water course permanently and that too in an appeal filed by respondent No.4. Therefore, the order dated 24.02.2012 (Annexure P-3) was rightly set aside by the learned SCO, vide order dated 21.04.2016 (Annexure P-4). Furthermore, a categorical stand has been taken by respondent-State that the order dated 07.10.2011 was implemented at the spot and even period of two crops for which the watercourse in question was temporarily restored vide order dated 07.10.2011 has already expired, therefore, the petitioner can have no grievance at this stage.

8. In this view of the mater, I find no merit in the instant civil writ petition and the same is accordingly dismissed.

9. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

17.12.2024
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No