



LPA-1565-2024 (O&M)

-1-

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

(102)

LPA-1565-2024 (O&M)

Date of decision: - 12.07.2024

Balkar Singh and another

.....Appellants

Versus

Superintending Canal Officer and another

.....Respondents

**CORAM : HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MR. JUSTICE VIKAS BAHL**

**Present:- Mr. Surinder Pal Singh Tinna, Advocate,
for the appellants.**

Mr. Saurav Khurana, Addl. A.G. Haryana.

G.S. SANDHAWALIA, (ORAL)

CM-3666-LPA-2024

1. In view of the averments made in the application duly supported by an affidavit, the present application for condoning the delay of 63 days in filing the appeal is hereby condoned.

2. CM stands disposed of.

LPA-1565-2024 (O&M)

1. Consideration in the present appeal is to the order dated 25.04.2024 passed in CWP-8549-2024, whereby learned Single Bench

**LPA-1565-2024 (O&M)****-2-**

has dismissed the writ petition.

2. The appellants were given the benefit as such to file an appropriate application for restoring their turn of water as and when the solar plant installed on their land was removed. Challenge in the writ petition was to the orders dated 29.01.2024 (Annexure P-6) passed by the Superintending Canal Officer and order dated 28.07.2023 (Annexure P-4) passed by the Divisional Canal Officer, whereby appellant No.1 was put to notice regarding the fact that the area was made uncommandable for the reason that the land in question had been leased out to the Solar Company for 25 years and solar plates had been installed. The stand as such of the appellants before the authorities was that the land would be cultivated after the expiry of the period of lease and they would require the water and therefore, the area may be kept as commandable, which was up to the extent of 53.54 acres.

3. The arguments now which is being raised that the water is used to keep fields operational and the canal water is the only source of irrigation for that purpose, is untenable as apparently once having leased out the land in question on 11.08.2015 (Annexure P-9), the possession is no longer with the land owners. The lease deed gives the right of the lessee as such to use the irrigation water in the property and the lessee is entitled to use the said facilities. The possession thus apparently remains with the company M/s Solaire Power Private Limited and the company has never agitated that this requirement is there for water being supplied by way of canal water. Water is a scarce commodity in Abohar as the

**LPA-1565-2024 (O&M)****-3-**

land in question is closer to Rajasthan and the action of the authorities as such is only to ensure that the utilization is made at this point of time for the next 15 years as per period of lease deed placed on record. In such circumstances, the official respondents had taken the said decision to make it an uncommanded area.

4. The matter was also examined by the Superintending Canal Officer, who noticed that the area was inspected by the Divisional Canal Officer and then, made the area uncommandable on temporary basis, vide order dated 28.07.2023. While dismissing the writ petition, learned Single Judge also called the concerned DCO, who was present and noticed that the decision was taken for making the area uncommandable on temporary basis, which is liable to be restored once the solar plant installed was removed. In such circumstances, we are of the considered view that the attempt of the appellants to hold on to the water entitlement is without any basis as they have no locus standi not having the possession of the land and their interest had been protected when the land is used for cultivation and the supply of the water as such for the purposes of irrigation of the land will be restored. The adjoining land can thus entail the benefit of the water supply to make it a commandable land, which is in the interest of the State. In such circumstances, the view taken not only protects the interest of the appellants to the extent that as and when the area is cultivated, their interest would be protected and their entitlement would be restored. A practical view has been taken and we do not find infirmity as such in the well reasoned orders passed by the authorities and the same has been duly upheld by the learned Single



LPA-1565-2024 (O&M)

-4-

Judge. Resultantly, the present appeal is dismissed in limine.

**(G.S. SANDHAWALIA)
JUDGE**

**(VIKAS BAHL)
JUDGE**

July 12, 2024

naresh.k

Whether reasoned/speaking?
Whether reportable?

Yes
No