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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-21934-2023

Date of Decision: January 31, 2024

Bhoop Ram and others

.....Petitioners

Versus

Superintending Canal Officer, Ferozepur Canal Circle, Ferozepur and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Judgepreet Singh Warring,Advocate
for the petitioners.

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RAJESH BHARDWAJ, J.(ORAL)

Petitioners have approached this Court praying for quashing of orders, dated 03.05.2023 and 23.06.2022, Annexures P-4 and P-2, passed by respondents No.1 and 2 respectively, whereby the land area of the petitioners has been converted uncommand from command area being arbitrary, unconstitutional, against the provisions of the Northern Indian and Canal Drainage Act, 1873, despite the fact that private respondent No.3/applicant does not want to take any action upon his application. It is further prayed to stay the operation of impugned orders dated 03.05.2023 and 23.06.2022, Annexures P-4 and P-2, respectively.

Learned counsel for the petitioner has fairly submitted before this Court that respondent No.3 had filed application before respondent No.2-Divisional Canal Officer, Abohar Canal Division, District Fazilka, praying to convert the command area to uncommand area. He submits that without following the due procedure and taking into consideration the

submissions made by the petitioner, the same was illegally accepted by learned Divisional Canal Officer, vide its order dated 23.06.2022, Annexure P-2. He submits that he preferred an appeal against the same before respondent No.1-Superintending Canal Officer, Ferozepur, but he had also fallen in grave error in rejecting the same. It is submitted that respondent No.3 has also made statement that he did not want to pursue the application filed by him but despite that both the authorities have passed the impugned orders totally in violation of the facts of the case and the law settled thus, both the impugned orders are unsustainable in the eyes of law.

Notice of motion.

On asking of the Court, Ms.Akshita Chauhan, DAG, Punjab, who is present in Court, accepts notice on behalf of the respondents/State whereas Mr.Pranshul Dhull, Advocate appearing for Mr.Kamal Gupta, Advocate, accepts notice on behalf of respondent No.3 and fairly submits that inadvertently he had filed this application before the Divisional Canal Officer and concedes the arguments raised by learned counsel for the petitioner that respondent No.3 never wanted to pursue the application filed by him. He further submits that he does not have any objection if the impugned orders are set aside.

Heard.

After hearing learned counsel for the parties, it is evident that respondent No.3 had filed the application for converting the command area to uncommand area but during the pendency of the proceedings before the respondent-authorities, he submitted that he did not want to proceed with the application, however, the impugned orders have been passed despite the

statement made by him before respondent/authorities. He has submitted that as he never wanted to proceed with the petition filed, thus, he has no objection if the impugned orders passed are set aside.

In view of the agreed position stated above and without going into the merit of the petition, the impugned orders are hereby set aside. The petition is allowed.

January 31, 2024	(RAJESH BHARDWAJ)
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1. Whether speaking/reasoned ?	Yes/No
2. Whether reportable ?	Yes/No