116 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-25071-2024 (O/M)
Date of decision : 05.11.2024

Vikram Sharma ..... Petitioner(s)

Versus

State of Haryana and others ..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Vikram Singh, Advocate
for the petitioner(s).

Ms. Upasana Dhawan, AAG Haryana.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Vikram Sharma) 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 10.03.2023 (Annexure P-3), passed by learned Deputy Collector, Bhiwani; order dated 04.08.2023 (Annexure P-4), passed by learned Divisional Canal Officer, Bhiwani (in short 'DCO') and order dated 05.03.2024 (Annexure P-6), passed by learned Circle Canal Officer, Bhiwani (in short 'CCO').

2. Briefly, respondent No. 5 (Ram Raji) submitted an application, demanding supplementary warabandi under Section 55 of Haryana Canal and Drainage Act, 1974 (in short '1974 Act'). The matter was got investigated and a supplementary draft warabandi was prepared by the concerned Ziledar. Thereafter, notices were issued to the shareholders of Mogha 35250-L Dadri Feeder. Respondent No. 5

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appeared before the canal authorities and made a statement that supplementary warabandi was sought as his turn was gathered at No. 19, whereas he wanted to separate his wari (turn), so that he can do irrigation separately and also to avoid conflicts. It appears that other shareholders of the aforesaid Mogha 35250-L Dadri Feeder, namely, Satish Kumar and Madan Singh raised no objection to the request of respondent No. 5. Accordingly, learned Deputy Collector, Bhiwani, vide order dated 10.03.2023 (Annexure P-3), allowed the demand of respondent No. 5 and allowed the naka to respondent No. 5 at point 54//21x75//2 for taking water and fixed point 75//9x11 for giving water.

2.2 Feeling aggrieved against aforesaid order dated 10.03.2023 (Annexure P-3), present petitioner preferred an appeal before learned DCO, which was dismissed, vide order dated 04.08.2023 (Annexure P-4). A further revision petition filed by the petitioner before learned CCO was also dismissed, vide order dated 05.03.2024 (Annexure P-6). Hence, present civil writ petition.

3. The only argument raised on behalf of petitioner is that new warabandi has been wrongly given to respondent No. 5 at point 75//1, whereas the land of respondent No. 5 also falls in Rect. No. 76, Killa No. 2, however, this fact has been ignored by the canal authorities below.

4. I have considered the submission made on behalf of petitioner, however, I do not find any merit in the same. A perusal of the site plan (Annexure P-7) would indicate that land of respondent No. 5 is depicted in pink colour, whereas the land of the petitioner is shown in green colour. The water channel is coming from the western side, starting

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from point 74//1 towards eastern side (shown in green line) and goes upto north-east corner of Killa No. 75//1; from where it turns downward (towards southern side) and reaches the land of the petitioner (shown in green colour). Concededly, the naka has been provided to respondent No. 5 at the intersection of Killa No. 54//21x75//2, which is the same as north eastern corner of Killa No. 75//1 from where the water channel turns down (southern side) and reaches the land of present petitioner. The provisioning of naka at the intersection of point 54//21x75//2 in no way affects the petitioner. It has not been shown as to what prejudice has been caused to the petitioner with the provisioning of new naka.

5. In ***Satnam Chand v Superintending Canal Officer, 2012(67) RCR (Civil) 635***; a co-ordinate bench of this court had observed as under:-

> *"…The fixing of Warabandi under Section 68 of the Act is a temporary arrangement. Warabandi is not a permanent arrangement and can be altered any time at the instance of aggrieved party if party can satisfy the Canal Authorities.*
>
> *5. Under Section 68 of the Act, the Deputy Collector decides only about the use and distribution of water. The order of the Deputy Collector fixing the Warabandi does not become final for all times to come. If one Warabandi is suggested at one time, then after some time, on the application of an aggrieved person, the same can be changed. The fixing of Warabandi under Section 68 of the Act, is a temporary arrangement. It may go on for some years or it may be changed earlier…"*

6. ***In Sahi Ram v. Superintendent Canal Officer, 1993 (3) PLJ 635***; a Division Bench of this court while dealing with a matter concerning turn (wari) of water under the Northern Indian Canal and Drainage Act, 1873; observed as under:

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"5. We are of the view that the Deputy Collector is competent to suo moto consider and decide a matter. The filing of an application is not a condition precedent for exercise of power under the provisions of Section 68. Consequently, the contention raised by the learned counsel for the appellant that Devinder Kumar having not moved any application under Section 68, the orders passed by the authorities are invalid, cannot be accepted.

6. There is another aspect of the matter. A perusal of the order dated January 16, 1990 passed by the Divisional Canal Officer shows that the case had been remanded to the Deputy Collector with the direction that "Wari (turn) be fixed according to civil record and nakkas be fixed on first come first serve basis------." It was thus necessary for the Deputy Collector to hear all persons who were getting their turn of water from the water-course in question. Admittedly, Devinder Kumar's land was at the end of the water course and he was a person who was likely to be affected. The authorities under the Act were thus entitled to hear his attorney while deciding the matter. They thus committed no illegality in considering his claim.

7. Equally lacking in merit is the second contention raised by learned counsel for the appellant that the appellant had been enjoying his turn of water since the year 1960 and as such, no alteration was called for. These are matters for consideration by the appropriate authorities under the Act. A writ Court can interfere only if there is a violation of the provisions of the Statute. Otherwise, the authorities under the Act are competent to decide the matter. In fact, they are the experts at the spot and the Courts are not competent to interfere unless a palpable violation of any provision of law is shown. No provision of the Act is shown to have been violated. Consequently, no ground for

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interference with the order passed by the learned Single Judge is made out…"

7. Learned counsel for the petitioner has also failed to point out any violation of provisions of the statute.

8. In view of the aforementioned facts and circumstances, there is no scope for interference in the impugned orders, accordingly the instant writ petition fails and the same is dismissed.

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

(HARSH BUNGER)
JUDGE

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sjks

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

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