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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-3301-2022 (O/M)
Date of decision : 03.03.2025

Uggar Singh and another

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. P.K.S. Phoolka, Advocate
for the petitioners.

Mr. Nirmaljit Singh Diwana, Senior DAG Punjab.

Mr. Sandeep Khunger, Mr. Saksham Khunger, Advocates
for respondents No. 5 to 7.

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HARSH BUNGER, J. (ORAL)

1. Prayer in this writ petition filed under Articles 226/227 of Constitution of India, inter alia, is for issuance of a writ in the nature of certiorari for setting aside the order dated 11.03.2020 (Annexure P-2), passed by Divisional Canal Officer, Bathinda Canal Division, Bathinda (in short 'DCO') and order dated 11.11.2021 (Annexure P-4), passed by Superintending Canal Officer, Sirhind Canal Circle, Ludhiana (in short 'SCO').

2. Briefly, private respondents No.5 to 7 herein approached the canal authorities seeking shifting of their turn (wari) i.e. warabandi from khata No.38 (continuing in khata No.27) and khata No. 39 to khata No. 1 of village Sardargarh.

2.1 On receipt of aforesaid application, notice was issued to the concerned shareholders under Section 68(3) of Northern India Canal and Drainage Act, 1873 (in short '1873 Act'). After effecting service, the shareholders who came present before the authorities below were explained the proposal and their statements were recorded.

2.2 Learned Deputy Collector, Bathinda (in short 'Deputy Collector'), vide order dated 08.07.2019 (Annexure P-1), rejected the request of private respondents.

2.3 Feeling aggrieved against the order dated 08.07.2019 (Annexure P-1), passed by learned Deputy Collector, private respondents preferred an appeal before learned DCO, which came to be allowed, vide order dated 11.03.2020 (Annexure R-5/5), the relevant extract of which, when translated, reads as under:

“Appellant and the opposite party appeared before the Court. Counsel for the appellant has put forth his claim. The opposite party (respondents) has produced the copies of the sale deeds of the land purchased by them, which were sought from them. Upon perusal of the same it was revealed that the land which was purchased by them, in that the area for which the appellant had sought wari (turn), is not mentioned. That apart, the area in respect of which the wari (turn) was changed in the order dated 08.01.1999 passed by the Deputy Collector, Bathinda was also looked into. After considering all the facts, the appeal is accepted and the order dated 08.07.2019 passed by the Deputy Collector, Bathinda is set aside. The wari (turn) which has been prayed for in the appeal, the same be granted to the appellant. File be consigned to the record room.”

2.4 Being dis-satisfied, the petitioners preferred an appeal under Section 68(6) of 1873 Act before learned SCO, however, the same was dismissed, vide order dated 11.11.2021 (Annexure P-4).

3. In the aforementioned circumstances, the petitioners have filed the instant civil writ petition before this Court, for the relief(s), as noticed hereinabove.

4. Heard.

5. In the present case, private respondents had sought fixation of their turn (wari i.e. warabandi) by shifting the same to khata No. 1 of village Sardargarh, which came to be rejected by learned Deputy Collector, vide order dated 08.07.2019 (Annexure P-1). A perusal of aforesaid order dated 08.07.2019 (Annexure P-1) would reveal that order had been rendered at the back of private respondents as on the date of decision, private respondents were not present before the said Court. However, on an appeal being filed by private respondents, learned DCO, upon perusal of sale deeds submitted by petitioners in respect of their land, came to the conclusion that the area, for which private respondents had sought fixation of their turn (wari i.e. warabandi), was not included therein. Accordingly, finding merit in the claim of private respondents, learned DCO directed that the turn (wari i.e. warabandi), as sought by private respondents, be granted to them. The said order has been further affirmed by learned SCO, vide order dated 11.11.2021 (Annexure P-4).

6. It is not disputed before this Court that the matter pertaining to the fixation of turn (wari i.e. warabandi) is temporary in nature. In ***“Jaggar Singh versus Superintending Canal Officer”, 1988 PLJ 235;*** this Court observed that fixing of warabandi is adhoc arrangement and

can be altered by the competent authority on an application of an aggrieved person.

7. Learned counsel for petitioners has failed to point any illegality or perversity in the orders passed by learned Divisional Canal Officer as well as Superintending Canal Officer. It has also not been pointed out as to what prejudice has been caused to petitioners nor it has been shown that the petitioners have suffered any loss of irrigation.

8. In “*Balbir Singh versus Superintending Canal Officer and others*”, 2002 (2) RCR (Civil) 658; a Division Bench of this Court while considering a case of change of warabandi, observed that this Court is not supposed to sit as a court of appeal over the orders passed by the authorities under the Act.

9. Considering the totality of circumstances, I find no compelling reasons to interfere in the impugned orders. Resultantly, the instant civil writ petition fails and the same is accordingly dismissed.

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

(HARSH BUNGER)
JUDGE

03.03.2025

sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No