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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-27822-2024 (O/M)

Date of decision : 20.02.2025

Ram Kumar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. P.S. Jammu, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG Haryana.

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HARSH BUNGER, J. (ORAL)

1. Prayer in the instant civil writ petition filed under Article 226/227 of Constitution of India is for issuance of a writ in the nature of mandamus for directing respondents to construct watercourse 'CGA' as neither katcha nor pucca watercourse has been constructed at the spot especially when the respondents undertook to construct the watercourse 'CGA', vide order dated 26.04.2018 (Annexure P-2), passed by this Court in LPA-1020-2017, the relevant extracts of which read as under :-

“ Much facts in detail are not required to be recorded. The dispute pertains to a sanctioned watercourse. Initially, the watercourse, as shown in the plan produced in court today and marked as 'ABDEGA' was the watercourse sanctioned by the Divisional Canal Officer. However, before the Superintending Canal Officer, an alternate was ordered, which is now shown in the plan as 'AECDA'.

Learned counsel for the appellants submitted that the proposed watercourse is bifurcating the land of the appellants, where a school has been constructed from the place marked as 'CBA'.

To resolve the issue, on 18.1.2018, parties sought time. Now an alternate has been suggested, which is shown in the plan as 'CGF' as against 'CGA', which will take the watercourse through one side of the school of the appellants.

Both the parties are agreed that the aforesaid watercourse be treated as the sanctioned watercourse as against the earlier sanctioned watercourse.

In view of the above consent of the parties, it is directed that the aforesaid watercourse from the place, agreed as 'CGA', will be constructed by the State. Whatever amount is required for construction of the watercourse, the same shall be deposited by the appellants with the State within a period of one week after the estimate is provided to them. After the aforesaid amount is deposited by the appellants, the State shall construct the watercourse within a period of one month thereafter. It is further directed that mutation of the land now to be utilised for construction of the watercourse shall be entered in the name of the State.

The appeal stands disposed of accordingly.”

2. It transpires that earlier the petitioner preferred a contempt petition bearing COCP-879-2022 alleging non compliance of the order dated 26.04.2018 (Annexure P-2), wherein a short reply by the Executive Engineer, Fatehabad, was submitted, the relevant extracts of which read as under :-

“2. That the above said COCP came up for on dated 19.01.2024 before this Hon'ble High Court and the Hon'ble court was pleased to pass the following orders

“Counsel for the respondents seeks some more time to produce the record, showing that the

water-course in question was actually constructed by the respondents and also to produce the record qua labour work, engagement of labour and payment of money to the said labourers or to contractor, for digging up the said water-course.

3. *That it is humbly submitted that in the compliance of the order dated 26.04.2018 passed by Hon'ble Punjab and Haryana High Court, initially, the then Sub Divisional Officer, Bhattu Water Services Sub Division Bhattu had prepared an estimate of pucca water course on dated 06.06.2018 amounting to Rs. 3,71,734/- which was sent to the Appellant of LPA No. 1020 of 2017, i.e. Ram Partap and another, to deposit the amount. In reply thereof, they had submitted an application to the effect that a re-estimate may be prepared taking objection to the pucca water course and said that they have agreed for replacing the Kacha Water Course i.e. CBA with Kacha Water Course CGA only by providing land for the same. Accordingly, new estimate for construction of Kacha water course at point 'CGA' amounting of Rs. 11050/- was prepared for approval. After approval of the estimate, the appellant deposited the estimated amount Rs. 11050/- with the department through E-Challan on dated 18.07.2018 (Annexure R-1) and accordingly the department had constructed the Kacha water course through private agency on dated 20.07.2018. The order of the Hon'ble Court has been implemented in letter and spirit.*

4. *That there was in compliance of the order passed by Hon'ble High Court.*

5. *That the petitioner has filed the present COCP, only for the reason that he wants Pucca Water Course (Brick Constructed) instead of the Kacha Water Course from the place, agreed as from point 'CGA', which had already been constructed by the department, therefore, the deponent or the*

other respondents can't be held responsible for the same.

6. *That the above said construction had been done under the supervision of the then Sub Divisional Officer, Bhattu Water Service Sub Division, Bhattu, by Junior Engineer Dariyapur section, on dated 20.07.2018. A canal wire was also issued by Junior Engineer Dariyapur section for information to the senior officers on the same day intimating that the work has been started on spot (Annexure R-2). A Photograph of the spot that time carrying work is also annexed herewith as (Annexure R-3).*

7. *That the watercourse in dispute CGA was constructed at site on dated 20.07.2018. However, the petitioner neither used nor maintained the disputed water course, since the time it was constructed at site. It is pertinent to mention here that the watercourse in dispute still exists at site except about in the length of approximate 200 feet. This portion of the water course in dispute in the length of about 200 feet is lying abandoned with sand and during the span of time as the adjoining land owners has made their house ramps over the water course in dispute. The Photographs are attached herewith as Annexure R-4 to R-9 for the kind consideration of the Hon'ble High Court."*

3. Learned State counsel further refers to the status report dated 05.12.2024, filed in the present case, the relevant extracts of which read as under :-

"1. That as per the directions of the Hon'ble High Court, the undersigned, Parveen Kumar, Sub Divisional Canal Officer, visited the site on 14.11.2024. During the visit, the undersigned inspected the disputed watercourse, referred to as "CGA", in compliance with the order dated 26.04.2018 passed in LPA No. 1020 of 2017. The watercourse passes through Rectangle No. 8, Killla No. 22/1, 19/2, 12/1/1/2, and 9/2 on the western side, and Killa No. 10/1/1 and 10/2/1 along the

northern side boundary of Village Shahidanwali, District Fatehabad.

The total length of the disputed watercourse (CGA) is approximately 1,004 feet. It was observed that the watercourse still exists in the length of 397 feet in Killa No. 22/1 and 19/2 from point 'C' towards 'G' as well as 316 feet in Killa No. 10/1/1 from point 'G' to 'A'.

However, the watercourse now, no longer exists in the length of 291 feet in Killa No. 12/1/1/2 and 9/2 in between the point 'C' to 'G'. These areas have been abandoned and filled with sand as the adjoining landowners have constructed ramps over these abandoned 291 feet area of the watercourse. The photographs of the site, alongwith latitude and longitude coordinates, are attached herewith as (Annexure R-1/1-6) for the kind consideration of the Hon'ble High Court.

4. Learned State counsel, on instructions from Mr. Sanjay Kumar, Zileadar, submits that the order dated 26.04.2018 (Annexure P-2), passed by the LPA Bench, was duly complied with as the watercourse was constructed at the site, however, over a period of time, the adjoining land owners had filled up sand in the watercourse and constructed ramps. She further submits that resultantly the watercourse in the length of 291 feet is lying abandoned. She informs that the authorities have already issued notices to the persons, who have blocked said watercourse and the same would be made operational within a period of two months.

5. Keeping in view the stand taken by learned State counsel, the present petition is disposed of with a direction to the State/Canal Authorities to get the watercourse in between point 'C' to point 'G' in the length of 291 feet in Killa No. 12/1/1/2 and 9/2 free from encroachment and made operational at site.

6. Pending applications(s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

20.02.2025
sjks

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