

(2013) 10 P&H CK 0347

High Court Of Punjab And Haryana At Chandigarh

Case No: CWP. No. 6121 of 2012

Ramesh

APPELLANT

Vs

Superintending Canal Officer
and Others

RESPONDENT

Date of Decision: Oct. 8, 2013

Hon'ble Judges: Rakesh Kumar Jain, J

Bench: Single Bench

Advocate: Rajkapoor Malik, for the Appellant; Saurabh Mohunta, DAG, Haryana and Mr. Karan Singh, Advocate for Respondent Nos. 4 to 6, for the Respondent

Final Decision: Dismissed

Judgement

Rakesh Kumar Jain, J.

The petitioner has challenged order dated 21.07.2011 passed by respondent no. 3 and order dated 18.11.2011 passed by respondent no. 2 by which the petitioner has been directed to restore the watercourse to the private respondents. The case of the petitioner is that he is irrigating his land from outlet RD-14500-L Bhuna Minor running in the area of Cheeka Sub Division. The private respondents filed an application before respondent no. 3 that the petitioner has demolished their watercourse because of which they are unable to irrigate their land and prayed for restoration of the demolished watercourse. Respondent no. 3, vide his order dated 21.07.2011, observed that there is a temporary watercourse running through Killa Nos. 6, 15, 16 from North to South towards Eastern side which has been demolished. The said order has been maintained in appeal by respondent no. 2.

2. The petitioner challenged the orders dated 21.07.2011 and 18.11.2011 by way of CWP No. 340 of 2012 which was disposed of by this Court, giving liberty to the petitioner to file a revision before the Chief Canal Officer or the Superintending Canal Officer. In view thereof, the petitioner filed revision before the Superintending Canal Officer but it was dismissed on 02.03.2012.

3. Counsel for the petitioner has submitted that once there is a permanent watercourse running through the fields of the private respondents, as shown in the Khaka plan, there is no question for providing watercourse through the land of the petitioner.

4. On the other hand, counsel for the respondents have submitted that the private respondents are irrigating their land through outlet RD-14500-L Bhuna Minor paying the requisite fee/charges. When the watercourse was dismantled by the petitioner, they moved the application and it was found to be dismantled by the official respondents during inspection at the spot and after hearing both the parties, orders for restoration of the watercourse were passed. It is also alleged that there is no other watercourse adjoining the land of the private respondents.

5. After hearing learned counsel for the parties and perusal of the record, I have found that the Sub Divisional Canal Officer, Water Services Sub Division, Cheeka, observed in his order dated 21.07.2011 that he had himself inspected the site and found that temporary water course, running through Rect. No. /Killa No. 78/6, 15 & 16 towards eastern side, has been demolished. In view thereof, the temporary watercourse was ordered to be restored to its original position for 6 months. The Divisional Canal Officer, Kaithal, has also made the similar observation, after inspection of the site, that the watercourse A-B was dismantled, but the petitioner did not care to restore it, as a result of which the private respondents are not getting water for irrigation of their fields. In revision, the Superintending Canal Officer, Bhakra Water Services Circle, Kaithal, had also considered the Khaka Plan, other relevant documents and himself inspected the site on 02.03.2012 by walking on foot along the alignment of watercourse ABC and observed that watercourse further from point B is still existing and the respondents had been irrigating their land from this watercourse but its AB portion from the head of outlet RD-14500-L, Bhuna Minor in length of about 3-¹/₄ Killas has been dismantled at the spot by the petitioner. In view thereof, the revision filed by the petitioner has been dismissed.

6. The submission made by the petitioner that in terms of the Jamabandi for the year 2003-04, Gair Mumkin Khal provided to the land owned by the Panchayat Deh is the source of irrigation to the land of the private respondents is not acceptable once it has been found even by the Superintending Canal Officer, who had personally inspected the spot by walking on foot on the boundary of the watercourse and found that the same has been dismantled by the petitioner and has not been restored so far. In view thereof, I do not find any merit in the present writ petition and the same is hereby dismissed.