



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**LPA No. 1539 of 2024 (O&M)
Date of Decision:14.07.2025.**

Ragbir Singh

.....Appellant

Versus

State of Haryana and others

..... Respondents

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL
HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA**

Present: Mr. Ishnoor Singh, Advocate
for appellant.

LISA GILL, J.

1. Prayer in this appeal is for setting aside order dated 20.05.2024 passed by learned Single Bench, whereby CWP No. 10866 of 2024 filed by appellant/writ-petitioner was dismissed.

2. It was pleaded in the writ petition that private respondents i.e., 5 to 7 in the present appeal filed an application under Section 18 (2) of Haryana Canal and Drainage Act 29 of 1974 (for short 'Drainage Act') for sanction of water-course E-F in the Chak of outlet RD No. 15059/L Gangeser Distributory in village Kurana, Tehsil Israna, District Panipat. It was pleaded that though the writ-petitioner and other co-sharers did not give their consent, Divisional Canal Officer, vide order dated 05.06.2023 proceeded to illegally sanction the water-course on compensation basis from point E-F in Killa No. 19//4 eastern side at the Southern-Northern dowl.

Appeal filed by appellant/writ-petitioner was dismissed by Superintending Canal Officer on 07.07.2023 while finding no merit therein. Revision petition filed by appellant/writ-petitioner was also dismissed vide order dated 05.03.2024. Aggrieved therefrom, CWP No. 10866 of 2024 was filed.

3. Learned Single Bench, upon considered the facts and circumstances as well as submissions of the counsel and Divisional Canal Officer, who it is recorded remained present before the Writ Court along with the site plan and other record on 20.05.2024, concluded that there was no infirmity or illegality in the impugned orders. Hence the writ petition was dismissed.

4. Aggrieved therefrom, present appeal has been filed.

5. Learned counsel for appellant vehemently argues that all the authorities as well as learned Single Bench have grossly erred on facts and in law while rejecting the claim of present appellant/writ-petitioner. It is submitted that Section 17 and 18 of the Drainage Act are applicable only where a Scheme has to be framed for a new outlet on the main canal or branch canal or an outlet with discharge of less than 0.5 Cusic water. In the present case, a water-course existed on the land with an established Warabandi, but private respondents themselves had demolished the water-course and laid down water pipe-line which is still in existence. Water-course has thus been illegally sanctioned on the premise that respondents have no other water-course. It is thus prayed that present appeal be allowed and writ petition filed by appellant-writ/-petitioner be allowed as prayed for.

6. We have heard learned counsel for the appellant and have gone through the file with his able assistance.

7. Filing of an application under Section 18 (2) of the Drainage Act, by private respondents before Divisional Canal Officer for sanctioning

alignment of water-course E-F on the basis of compensation, preparation of the Scheme under Section 17 of the Drainage Act after investigation and subsequent sanction for alignment of water-course E-F on compensation basis by Divisional Canal Officer vide order dated 05.06.2023 is a matter of record. Divisional Canal Officer, vide order dated 05.06.2023 has specifically held that demand of the applicants as raised was genuine because their area was unirrigated since the Crop Kharif-2017 and that Scheme was sanctioned to provide better irrigation facilities. Appeal and revision filed by present appellant/writ-petitioner were also dismissed by the authorities finding no cogent reason.

8. It is to be noted that learned Single Bench has duly recorded in impugned order dated 20.05.2024 that Divisional Canal Officer remained present before him and had produced the site plan before the Court. In this regard, it was observed as under:-

“5. Mr. Puneet Sahni, Divisional Canal Officer is present in person in Court today and has produced the site plan before the Court. He has apprised the Court that the main canal for irrigation is Gangesar Rajbah and the nakka as shown in the site plan is O/L-15059/L at point A. He has submitted that the water course runs from point B-C-F and the portion at E-F was restored. He has submitted that the argument raised by learned counsel for the petitioner that there is an underground pipeline from point B but the same is for carrying the tubewell water and not for the canal water. He has submitted that laying down of the pipe as contended by learned counsel for the petitioner is hardly sufficient for irrigation of the water by tubewell and the same has no relevancy for carrying the canal water. He apprised the Court that the private respondents had no source of canal water and thus, the water course has been sanctioned by passing the orders which have been impugned by the petitioner. He has submitted that the impugned orders have been passed on the

basis of record and as the respondents had no water course for the canal water, thus, there was no violation of the statutory provisions in passing the impugned order.”

9. Learned counsel for appellant/writ-petitioner urged that incorrect provisions had been invoked by the respondents and that there was already an existing water-course which had been demolished by the respondents themselves. However, it is to be noted that on a pointed query to learned counsel for appellant/writ-petitioner, he was unable to point out any such material on record to substantiate such averment and neither could he pointed out the situs of the so called earlier water-course allegedly demolished by the private respondents themselves. We had also asked learned counsel to point out the situs of such earlier water-course with reference to the site plan, Annexure P-2, but he was unable to do so. It is further noted by learned Single Bench that the underground pipeline from point B was for carrying water from tubewell only.

10. At this stage, it is pertinent to note that learned counsel had sought time on 01.10.2024 to place on record the pleadings before various authorities in order to clarify the stand of present appellant/writ-petitioner. Despite various opportunities, relevant documents are not forth-coming till date. We do not find any justification for further adjournment of this appeal filed in May 2024.

11. In the given facts and circumstances, learned counsel for appellant/writ-petitioner is unable to point out any illegality, infirmity or perversity in the impugned order (s), which call for interference by this Court.

12. No other argument has been raised.

13. Keeping in view the facts and circumstances as above, this appeal is dismissed being devoid of any merit with no order as to cost. Pending application (s), if any, stand (s) disposed of accordingly.

**(LISA GILL)
JUDGE**

**(DEEPINDER SINGH NALWA)
JUDGE**

July 14, 2025.

s.khan

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