

(2018) 02 RAJ CK 0023
In the Rajasthan High Court
Case No : 11643 of 2011

Bahadur Ram S/o sh. Hari Ram	Vs	APPELLANT
State of Rajasthan & Ors.		RESPONDENT

Date of Decision : 14-02-2018

Acts Referred:

Citation : (2018) 02 RAJ CK 0023

Hon'ble Judges : Vijay Bishnoi

Bench : Single Bench

Advocate : NR Budania, Narendra Singh Rajpurohit

Final Decision : Disposed off

Judgement

1. The matter comes upon for consideration of the application (APPLW No.997/2018) preferred on behalf of the petitioner with a prayer to decide the writ petition in terms of the decision dated 13.04.2012 passed in S.B. Civil Writ Petition No.3967/2008 (Krishan Kumar Vs. State of Rajasthan).
2. With the consent of the parties the matter is heard finally today.
3. The brief facts of the case are that one Nanakram was allotted 12 bighas of the command land along with 11 bighas of uncommand land in Chak 1 MLD (now Chak 28 AS/B) and Chak 1 SDR. The 12 bighas of the command land allotted to Nanakram is situated in Murabba No.86/3 of Chak 28 AS/B, whereas 11 bighas of uncommand land is situated in Murabba No.83/28 of Chak 1 SDR.
4. As per the petitioner, Nanakram was provided irrigation facility to his command land measuring about 12 bighas up to year 1984, however, thereafter the said facility has been stopped by the Irrigation Department.

5. It is also contended by the petitioner that he has purchased the said command land from Nanakram through registered sale deed in the year

2010 and thereafter he is regularly approaching the respondents to provide water facility to the said 12 bighas command land but the respondents

are not providing the same on the ground that the said 12 bighas of command land is not included in Chak Plan issued by the respondents.

6. Learned counsel for the petitioner has submitted that the controversy involved in this petition has already been decided by this Court in S.B.

Civil Writ Petition No.3697/2008 (Krishan Kumar Vs. State of Rajasthan) decided on 13.04.2012, wherein this Court has held that any land

allotted as command land could not have been treated to be uncommand land by the Irrigation Authorities.

7. It is also submitted by learned counsel for the petitioner that the decision rendered in Krishan Kumar's case (supra) has been upheld by the

Division Bench of this Court in D.B. Special Appeal Writ No.112/2017.

8. Learned counsel for the petitioner has therefore, prayed that the present writ petition may be allowed in terms of the judgment passed by this

Court in Krishan Kumar's case (supra).

9. Learned counsel appearing for the respondents has opposed the prayer of the petitioner and submitted that due to scarcity of water the 12

bighas of the command land of Murabba No.86/3 of Chak 28 AS/B has not been included in the Chak Plan and the said land is treated as

uncommand land, therefore, irrigation facility cannot be provided by the respondents to the said land.

10. Heard learned counsel for the parties.

11. This Court in Krishan Kumar's case (supra) has held as under:

8. Indisputably, the allotment of the land in question in favour of the petitioner's predecessor was made as command land by the competent

authority after charging the price as required to be paid for irrigation land. It is also a common ground between the parties that the since the land

allotted was command land, the irrigation facility was extended to it up to the year 1983. In this view of the matter, the irrigation authorities had no

jurisdiction to consider the command land to be uncommand land on their own. As a matter of fact, while deciding the representation made by the

petitioner, the respondent authority has proceeded with the presumption that the

land in question is uncommand land and the same cannot be converted into command land inasmuch as the adequate water is not available in Anoopgarh Branch of the canal. In considered opinion of this Court, the petitioner's land which was command land when initially allotted could not have been treated to be uncommand land by the irrigation authorities. Thus, the respondent authority has committed an error in treating the land to be uncommand land.

9. The land held by the petitioner being command land the respondent authorities are under obligation to take appropriate steps to provide the irrigation facilities to the said land.

The respondent authority has to consider the petitioner's demand for supply of the water in accordance with the provisions of the Rajasthan

Irrigation and Drainage Act, 1954 and the Rules made thereunder.

12. In the present case also, 12 bighas of command land was allotted to Nanakram in Murabba No.86/3 of Chak 28 AS/B and irrigation facility

was also provided to the said land for some time. Later on, the respondents - Department has prepared a Chak Plan and has excluded the said 12

bighas of command land in it. As per the law laid down by this Court in Krishan Kumar's case (supra) the Irrigation Department has no jurisdiction

to treat the command land as uncommand land and the respondents are under obligation to provide irrigation facility to the said 12 bighas of

command land.

13. Hence, the writ petition is allowed. The respondents are directed to consider the application of the petitioner for supplying of water to the 12

bighas of land situated in Murabba No.86/3 of Chak 28 AS/B, while treating it to be command land, in accordance with the provisions of

Rajasthan Irrigation and Drainage Act, 1954 and Rules made thereunder expeditiously, preferably within a period of six weeks from the date of

production of certified copy of this order.

14. There shall be no order as to costs.

15. Stay petition stands disposed of.

16. All the applications are disposed of.