
(2018) 03 RAJ CK 0197

In the Rajasthan High Court

Case No : Civil Writ Petition No. 3283 of 2018

Brij Lal @APPELLANT@Hash State of Rajasthan

Date of Decision : 14-03-2018

Acts Referred:

Code of Civil Procedure, 1908 — Order 39 Rule 1, Order 39 Rule 2

Citation : (2018) 03 RAJ CK 0197

Hon'ble Judges : DR. PUSHPENDRA SINGH BHATI, J

Bench : Single Bench

Advocate : S.L. Jain, Shyam Sunder Ladrecha, Sushil Bishnoi

Final Decision : Dismissed

Judgement

1. The petitioners have preferred this writ petition claiming the following reliefs:

â??A. By an appropriate writ order or direction, the orders impugned dated 23.12.2017 (Annex.6) passed by the Civil Judge, Suratgarh, District Sri

Ganganagar as well as the order dated 14.02.2018 (Annex.7) passed by the Additional District Judge, Suratgarh, District Sri Ganganagar may kindly

be quashed and set aside.

B. By an appropriate writ, order or direction, the application of the petitioners under Order 39 Rule 1 & 2 CPC may kindly be allowed as prayed for.

C. Any other appropriate order or relief which this Honâ??ble Court may deem just and proper in the facts and circumstances of this case may kindly

also be passed in favour of the humble petitioner.â??

2. The petitioners instituted a suit for temporary and perpetual injunction against the respondents with the averment that the petitioners are

agriculturists and their land is cultivated in Chak 1 NRD, Tehsil Suratgarh, District Sriganganagar from the outlet concerned.

3. Learned counsel for the petitioners has submitted that the total capacity of

supply of water to this outlet is 444 CCA and the land irrigated from this outlet is shown as 461 CCA. Learned counsel for the petitioners has further stated that the Staterespondents had been approached for increasing the size of the outlet but nothing has happened till date.

4. Learned counsel for the respondent has pointed out order dated 04.07.2017 whereby 10.8 bigha land has been included in the water supply. The application filed under Order 39 Rule 1 & 2 of CPC to restrain the respondents from activating the order dated 04.10.2017 without increasing the size of mogha was preferred and dismissed by the learned court below on 23.12.2017.

5. Learned counsel for the petitioners has pointed out that the petitioner preferred an appeal which was already dismissed on 14.02.2018. It is also contended that the barabandi issued by the respondents was finalized for a specific period and for a specific land and therefore, new land cannot be included in the same schedule as it will prejudice the petitioner who is already receiving the water which would be reduced, if the mogha is not expanded.

6. Learned counsel for the respondent however, states that the land in question is a command land which is proposed to be irrigated vide order dated 04.10.2017 and thus, as per the law, he is entitled for the water as from the beginning the command land was demarcated. It is also contended that from long duration, the land was not irrigated. The water of its share was given to the other cultivators and once his irrigation has been resumed, the water of his share which shall be received by him in accordance with the original parameters for the command land.

7. Learned counsel for the respondent has further justified the order dated 04.10.2017 on account of the fact that even if the irrigation is allowed for the said cultivator vide order dated 04.10.2017 then also it is not likely to cause any material impact upon the irrigation facility of the respondents.

8. After hearing learned counsel for the parties and perusing the record of the case, this Court is of the view that it is not disputed that the irrigation is being sought to be implemented for 10.8 bigha vide order dated 04.10.2017 in pursuance of order dated 04.10.2017 only on the condition that the same land is already having a status of command land and is thus, entitled to receive the supply of water. This Court also finds that two consecutive orders of learned courts below are in operation which are well justified and well

reasoned and need no interference of this Court at this stage.

9. In the above backdrop, the present writ petition is dismissed.