

(1983) 09 P&H CK 0063
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2111 of 1977

Daryao Singh

APPELLANT

Vs

Chief Canal Officer, Haryana and others

RESPONDENT

Date of Decision : 09-09-1983

Acts Referred:

Citation : (1984) PLJ 3 : (1985) RRR 319

Hon'ble Judges : S.S Kang, J

Advocate : S.S Ahlawat, Advocate., Advocates for appearing Parties

Judgement

S.S. Kang, J. (Oral)

1. By this writ petition under Article 226 of the Constitution of India, Daryao Singh and 15 others landowners of village Bhagwanpura, pray for the issuance of a writ of certiorari quashing the order dated 21st January, 1977 (copy Annexure P.4) passed by the Chief Canal Officer, respondent No. 1 allowing the revision petition filed by respondent No. 4 and shifting some of his lands from watercourse RD 9475L of Ghaso minor to RD 12049L Ghaso minor.

2. The petitioners are residents and landowners of village Bhagwanpura. Their lands are being irrigated through outlet RD 12049L of Ghaso minor. Chhailu Ram hails from village Ghaso Kalan, and has his lands in the area of that village. Ranjit brother of Chhailu, abovementioned, along with other right holders of village Ghaso Kalan moved an application before the Divisional Canal Officer praying for the transfer of 33/33 acres of land from RD 9475L to RD 12049L on the ground that the lands were not getting proper irrigation from existing watercourse. The Divisional Canal Officer rejected this prayer vide order dated December 12, 1973 for the reason that irrigation percentage of the area is already 104% as against the permissible percentage of 62%. They filed an appeal against this order and the same was dismissed by the Superintending Canal Officer vide order dated 14.3.1974. He confirmed the finding of Divisional Canal Officer. He held that the percentage of irrigation of the land in dispute, i.e. 104% was quite high. The decision of Divisional Canal Officer was technically sound and

under the law applicable. At that time, no appeal or revision was provided against the order of the Superintending Canal Officer and his order became final.

3. The Legislative Assembly enacted the Haryana Canal and Drainage Act, 1974 (hereinafter called the Act). Chhailu and others filed another application for the transfer of the same 33/33 acres of land from RD 9475L to the chak of RD 12049L Ghaso minor. This prayer was allowed by the Divisional Canal Officer vide order dated 8.4.1976. The appeal filed by the petitioners was dismissed by the Superintending Canal Officer. A provision has been made for filing revision to the Chief Canal Officer which provision was not available in the Northern India Canal and Drainage Act under which the previous proceedings were taken.

4. Chhailu Ram and others filed a revision against this order. The Chief Canal Officer partly allowed the revision petition. He shifted an area of 4.35 acres of land belonging to Chhailu Ram respondent from outlet RD 9475L to outlet RD 12049L. The prayer regarding rest of the land was rejected because that land was getting sufficient and adequate irrigation from the existing arrangement. Aggrieved by the order the petitioners have filed the present writ petition.

5. Shri S.S. Ahlawat, learned counsel for the petitioners, has raised two contentions before me (i) that the application for shifting this very land which is the subject matter of the present dispute was declined by the Divisional Canal Officer and that order was confirmed by Superintending Canal Officer; and (ii) the authorities had come to the positive finding in the earlier litigation while adjudicating the previous application that the percentage of 33/33 acres sought to be shifted was 104 per cent against the permissible 62 per cent. The Chief Canal Officer has given no cogent reasons for upsetting this finding of fact and holding that 4.35 acres of land were getting only 64 per cent of irrigation and shifting the same to RD9475L. It is evident from the report of the Ziledar that even this land was getting satisfactory irrigation.

6. The proceedings before the authorities under the Act are quasijudicial in nature. Even if section 11 of the Civil Procedure Code in terms is inapplicable to these proceedings, the principle of resjudicata will apply to these proceedings for achieving finality in litigation. Once a cause has been adjudicated, it will not be determined again. The rule of conclusiveness of judgement as to the points decided after hearing the party is of universal application. It is founded on equity, justice and good conscience. The doctrine is partly based on maxim of the Roman Jurisprudencenemo debet bis vexari pro una et eadem causano man shall be vexed twice over for the same cause. The rule founded on ancient precedent is dictated by wisdom for all times. If this rule is not applied, there would be no end to litigation and no security for citizens. The rule is intended not only to prevent a new decision on the same cause but also inhibit fresh investigation so that a citizen may not be harassed again in proceedings on the same matter. Public policy demands that the directions given by competent authority after hearing the parties to controversy must be final, so that the parties can arrange their affairs in the light of that decision.

7. In the present case the Superintending Canal Officer had rejected the revision petition filed by Chhailu and others on March 14, 1974. Shortly thereafter another application was moved by Shri Chhailu Ram, respondent No. 4 and two others seeking transfer of the same very area of 33/33 acres of land from outlet RD 9475L to RD 12049L. The same very argument was taken in support of the application. The Superintending Canal Officer allowed the appeal filed by the petitioners against the orders of the Divisional Canal Officer. No fresh material or any change in the circumstances was pleaded before the Chief Canal Officer in support of the second application. The petitioners had taken the specific plea before the Chief Canal Officer that the matter had already been thoroughly examined and finally decided by the Superintending Canal Officer and the present application for shifting was not maintainable. The learned officer has not given any finding on this objection and has granted some relief to respondent No. 4. Simply because the whole of the area of 33/33 acres of Land which was previously sought to be transferred has not been transferred by the impugned order makes no difference. The broad principles of orderly conduct of human relations are that matters which are once settled by a competent officer should not be reopened except by the superior authorities exercising the statutory powers under the changed circumstances which did not exist at the time of the previous decision. If the rightholders are permitted to make such type of applications after the completion of litigation, there will be no end of the controversy. Even technically speaking the principles of resjudicata will be application to these proceedings as these principles are not technical rules of evidence or proceedings, they contain well recognised public policy, that the matter which have once been decided should not be reopened again and again.

8. For the foregoing reasons I allow this writ petition, set aside the impugned order dated 21st January, 1977 and restore the order dated 29.11.1976 of the Superintending Canal Officer dismissing the second application. There shall, however, be no order as to costs.