

Hyderali Vs. the Superintending Engineer

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Court : Rajasthan

Decided On : Nov-25-1981

Reported in : 1981WLN(UC)369

Judge : M.C. Jain, J.

Appeal No. : S.B. Civil Writ Petition No. 1216/81

Appellant : Hyderali

Respondent : The Superintending Engineer

Disposition : Petition dismissed

Judgement :

M.C. Jain, J.

1. Heard learned Counsel for the parties.

2. The petitioner's grievance is that for his land situated at Square No. 163/399, the sanctioned Khala was from stone No. 161/400 to Stone No. 163/400. This Khala was subsequently changed from Stone No. 161/401 to Stone No. 163/401 by the order of the Executive Engineer dated 14-1-81 and maintained by the Superintendent Engineer by his order dated 29-4-81. The petitioner submits that the petitioner's grand father Ahmed Deen, the original land holder, submitted his objection against the change of 'khola' on 19-4-1978. Ahmed Deen expired on 6-3-

1980. The 'Khala' was changed without notice to the petitioner.

3. Mr. Sandhu, learned Counsel for the non-petitioner No. 3, invited the attention of this Court to the application submitted by the Ahmed Deen on 9-11-76 to 'the Executive Engineer wherein he gave his consent. Acting on that consent the Divisional Irrigation officer affected the change of Khala. The learned Counsel for the petitioner stated at the bar that the petitioner and two others have submitted an application for review or revision before the Superintending Engineer for setting aside the order dated 29 4-1981 passed by him as the same was passed without notice to them, he also pointed out that the petitioner does not know under what circumstances the application dated 9-11-1976 was filed, but if the petitioner's predecessor had submitted such an application there would have been no occasion to submit objections on 19-4-78 & the matter would have been disposed of with consent in the year 1976. I need not go into all these questions. The petitioner may raise these matters before the Superintending Engineer, before whom an application in the nature of review is already pending. The petitioner should first pursue the application submitted by him before the superintending Engineer. He may also bring the technical aspect of the matter to the notice of the Superintending Engineer. It would not be proper for this court at this stage to interfere in the impugned order in view of the pendency of the petitioner's application before the Superintending Engineer.

4. The writ petition is, therefore, dismissed summarily. However it is observed that in case the petitioner feels aggrieved by the order, which may be passed on his application for review, he may seek such remedy which may be available to him in law.