

Bhupendra Singh Vs. Executive Engineer, Gang Canal, North Division and ors.

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Court : Rajasthan

Decided On : Apr-11-1996

Reported in : 1996(2)WLN101

Judge : B.R. Arora and; A.S. Godara, JJ.

Appeal No. : D.B. Civil Special Appeal No. 853 of 1986

Appellant : Bhupendra Singh

Respondent : Executive Engineer, Gang Canal, North Division and ors.

Disposition : Appeal dismissed

Judgement :

B.R. Arora, J.

1. This appeal is directed against the judgment dated 7.5.86 passed by the learned Single Judge, by which the learned Single Judge dismissed the writ petition filed by the petitioner-appellant and directed the State Government to dispose of the petitioner's application, if any pending, within the period of two months and till the period of two months, the status quo, as it existed that day, shall be maintained.

2 Appellant-Petitioner being an unemployed Graduate, in order to establish a fish-breeding farm as a small scale industry, moved an application before the Divisional Irrigation Officer, Gang Canal, North Division, Sri Ganganagar, for sanction of water supply for this purpose and submitted the detailed plan for the establishment of the fish-breeding farm in his land bearing Square No. 20 Kila No. 3 of Chak2-g-I at Sri Ganganagar. The application filed by the petitioner-appellant was allowed by the Divisional Irrigation Officer and vide order dated 18.6.80 he was asked to deposit Rs. 3750/-as the water charges for one year. The supply of water to the fisheries tank of the appellant-petitioner was made by the Irrigation Authorities. After completion of one year, the appellant-petitioner again deposited the amount and the Divisional Irrigation Officer continued the supply of the water to the fisheries tank of the appellant for another year. Thereafter the supply of the water to the fisheries tank of the appellant was stopped vide order Annexure 9 annexed with the writ petition. The petitioner filed the writ petition challenging the order Annexure. 9 passed by the Divisional Irrigation Officer discontinuing the supply of the water to his fisheries tank. The writ petition filed by the petitioner-appellant was dismissed. It is against this judgment dated 7.5.86 that the appellant has preferred this appeal.

3. While admitting the appeal, the respondents were directed not to discontinue the water supply to the appellant- petitioner's fisheries tank vide order dated 4.7.86. The adinterim stay order passed by this Court on 4.7.86 was later-on confirmed. As per Rule 14 of the Rajasthan Irrigation and Drainage Rules, 1955, the Divisional Irrigation Officer is authorised to make contract for the supply of water for the purposes other than the Irrigation for any term not exceeding one year and for the term exceeding one year, the previous sanction of the State Government shall be necessary. It is an admitted fact that no sanction by the State Government was given in the present case for the supply of water to the petitioner-appellant's fisheries tank beyond the period of one year and, therefore, the order Annexure 9 passed by the Divisional Irrigation Officer was just and proper which could have been passed under Rule 14 of the Rules, 1955.

4. While deciding the writ petition, a direction was given to the State Government to decide the application, if any, moved by the petitioner before the State

Government but no such application was moved by the petitioner-appellant before the State Government and, therefore, no order could have been passed by the State Government. The petitioner-appellant's fisheries farm is still in existence and the water supply to it is being made on the basis of the stay order passed by this Court. Since for the last more than fifteen years the appellant-petitioner is running his fish-breeding farm, we, therefore, think it proper to grant fifteen days' time to the appellant-petitioner to move an application under Rule 14 of the Rules, 1955 to the State Government through the Divisional Irrigation Officer and the State Government will consider such application within the period of two months thereafter and till the disposal of the application, the water supply to the petitioner-appellant's fisheries tank may not stopped.

5. With these observations, the appeal filed by the appellant-petitioner is dismissed.