

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

Civil Writ Petition No.12324 of 2013

Date of Decision: 25.05.2015

Mukhtiar Singh and others

..... Petitioners

Vs.

The Superintending Canal Officer, Ferozepur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Arvind Mittal, Advocate for the petitioners.

Mr. Yatinder Sharma, Addl. A.G., Punjab
for respondent Nos.1 and 2.

Mr. J.S.Brar, Advocate for
Mr. B.S.Bhalla, Advocate for respondent Nos.3 and 4.

JASWANT SINGH, J. (Oral)

The case of the petitioners is for shifting irrigation of their land measuring 9 Acres from the current outlet No.55000/R 1-R Minor Mudki to 59625/R 1-R Minor Mudki on parity of reasoning as extended to the private respondents in CWP No.822 of 2011 (O&M), decided on 06.02.2012 (**Annexure P-3**). Hence, the challenge is to the impugned order dated 18.02.2013 (**Annexure P-12**) passed by the Superintending Canal Officer, Ferozepur (respondent No.1) with a further prayer for restoration of the order dated 26.10.2012 (**Annexure P-10**), passed by the Divisional Canal Officer, Harike Canal Division, C.C., Ferozepur (respondent No.2).

In compliance of the order dated 14.05.2015, Sh. Suman Sood, Superintending Engineer-cum-S.C.O., Ferozepur is present in the Court.

It is apparent from the judgment dated 06.02.2012 (**Annexure P-3**), passed in CWP No.822 of 2011 (O&M) that on the basis of an affidavit dated 27.01.2012, filed by the previous Superintending Engineer-cum-SCO, this Court has recorded a finding that the watercourse from Outlet No.59625/R-1-R Minor Mudki can take 1.58 cusec water.

In the present case, although 22 Acres belonging to the petitioners are being irrigated at this claimed watercourse, however, the request for adding of another 9 Acres has been refused, vide impugned order (**P-12**) passed by the then Superintending Engineer-cum-SCO, Ferozepur, namely, Sh. Prem Chand (who has since retired on superannuation w.e.f. 30.11.2014) on the ground that the said water course can only take 0.77 cusec water.

Mr. Sood has filed an affidavit dated 03.03.2015 on the lines resorted to in the impugned order (**P-12**) whereby it is stated that the said watercourse can only take 0.77 Cusec Water, which concededly is contrary to record. The said stand is based on some report dated 08.12.2011 furnished by the Divisional Engineer, Punjab State Tubewell Corporation (PSTC), Division No.3, Malout.

Even at the time of hearing, Mr. Sood is unable to refute the factual position regarding the strength and size of the watercourse being capable to take 1.58 Cusec water.

Prima facie, he is liable to be prosecuted under the Contempt of Court for filing a false affidavit, however, before proceeding any further, he is being allowed one opportunity to purge his wrong doing upon his tendering

unqualified apology and assurance that he would be careful in future.

After hearing learned Counsel for the parties and the stand of the Officer concerned, the present writ petition is allowed and the impugned order dated 18.02.2013 (**P-12**) is set aside with the direction to the said Officer to decide the matter afresh on the basis of documents on record and in accordance with law.

Parties shall appear before the Superintending Engineer-cum-S.C.O., Ferozepur on 27.07.2015.

May 25, 2015
Gagan

(JASWANT SINGH)
JUDGE