

CWP No.16702 of 2015 (O&M)

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

**CWP No.16702 of 2015 (O&M)
Date of decision:14 .10.2015**

Hardeep Singh and another

...Petitioners

Versus

Chief Canal Officer and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. HPS Ghuman, Advocate,
for the petitioners.

Mr. Pradeep Prakash Chahar, DAG, Haryana.

Rakesh Kumar Jain, J.

The petitioners have challenged the validity of the orders dated 03.09.2013 passed by the Divisional Canal Officer, Kaithal Water Services Division, Kaithal, order dated 11.03.2014 passed by the Superintending Canal Officer, Bhakra Water Services Circle, Kaithal and the order dated 19.06.2015 passed by the Chief Canal Officer, BWS Irrigation & Water Resources Department, Haryana, Panchkula, by which head of the outlet has been ordered to be shifted from RD 61290/L to RD 62740/L Khanauri Minor.

In brief, respondent No.4 made an application to the Divisional Canal Officer for shifting of the head of their outlet from RD 61290/L to

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RD 62740/L Khanauri Minor. A scheme was prepared under Section 17 of the Haryana Canal and Drainage Act, 1974 (hereinafter referred to as the “Act”) and was approved by the Divisional Canal Officer under Section 18(2) of the Act. As a result thereof, the head of the outlet was ordered to be shifted. Against that order, appeal filed by the petitioners was dismissed by the Superintending Canal Officer and the revision was dismissed by the Chief Canal Officer.

Counsel for the petitioners has argued that the canal authorities have blocked the existing outlet with sand and cement, as a result thereof, the irrigation of the paddy crop of the petitioners is being affected.

After notice, the respondents have filed reply in which it is averred that the disputed outlet has been shifted and the respondents are ready to give watercourse to the area of the petitioners to the satisfaction of the canal department. The alignment of proposed water course has been marked on the khaka plan as watercourse A-B and the watercourse may be dug at any time under the supervision of the department. In this regard, respondent No.4 Satyawar has also filed an affidavit, in which it is averred that:

“2. That we are the shareholders of outlet at RD 62740/L Khanauri Minor of village Sanghan and this outlet has been fixed in their area. The outlet in question has been shifted from RD 61290/L to RD 62740/L Khanauri Minor. We are ready to give water course to the area of petitioners S/Sh. Hardeep Singh etc. through rectangle/killi No.39//20-21 middle and further through rectangle/killi No.45//1-2-3-4 (on the southern line). We will neither make any demand for compensation of land underneath the proposed water course

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nor the same, will be demolished by them. The petitioners may dig water course at any.”

On the last date of hearing , i.e. 30.09.2015, this Court passed the following order:-

“One Satyawar S/o Sh. Narata Ram filed an application for shifting of head of outlet from RD 61290/L to 62740/L Khanouri Minor. On that application, scheme was prepared and it was recommended that the outlet be shifted from RD 61290/L to 62740/L. The petitioner had approached the courts below and submitted that because of the shifting, the water course which was being used by them has been blocked. This fact is not denied by counsel for the respondents. Rather it is submitted that it has been blocked because of new outlet RD 62740/L which has been operational and irrigating the entire land measuring 375 acres in which the land of the petitioner measuring 15 acres is also included. The grievance of the petitioner is that because of the blocking of the water course through which he has been irrigating his land from the last many years, paddy crop which require water at this stage is not being sufficiently irrigated and has also submitted that some of his land is located on the higher level, therefore, it can not be irrigated even from the new out let.

Counsel for the respondents, on instructions from Ishwar Dutt Head Revenue clerk has admitted this fact that some of the land of the petitioner is on the higher level which can be irrigated by lift but at the same time, it is also submitted that even from the present water course the entire land of the petitioner was not being irrigated as the present water course was also not reaching up to the land of the petitioner.

Be that as it may, respondent is directed to file a detailed affidavit in this regard.

Adjourned to 5.10.2015.”

Pursuant thereto, the respondent-department has filed the affidavit of the Divisional Canal Officer, Kaithal Water Services Division, Kaithal, in which the following averments have been made:-

“2. In the compliance of directions issued by this Hon'ble High Court on dated 30.09.2015, the answering deponent inspected the site of disputed outlet at RD 62740/L Khanouri Minor as well as the site of the area of the petitioners on dated 01.10.2015 and it was observed that the area of the petitioners can receive irrigation at site by way of lift source as the levels of the area of the petitioners is of high level and proposed water course would be run through depression.

3. That the area of the petitioners, no doubt used to be irrigated by flow before shifting the head of outlet from RD 61290/L Khanouri Minor. However, the petitioners did not provide water course through their holding to the area of other shareholders of the old outlet at RD 61290/L Khanouri Minor and the supply of the entire area of the outlet was being used only by the petitioners, on account of which the head of outlet in dispute was ordered to be shifted from RD 61290/L to outlet at RD 62740/L Khanouri Minor.

4. That only, the area of petitioners had been receiving irrigation since the outlet at RD 61290/L Khanouri Minor was fixed at site. The outlet at RD 61290/L Khanouri Minor was sanctioned for an area of 384/373 acres. However, only 30 acres area of the petitioners was receiving irrigation at site in the chak of previous outlet at RD 61290/L Khanouri Minor and therefore, the outlet was ordered to be shifted from RD 61290/L to outlet at RD 62790/L Khanouri Minor so that the area of all the shareholders of the outlet may start receiving proper irrigation at site.

5. That now the outlet at RD 62740/L Khanouri Minor has been fixed at such site where the entire area of the outlet

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has been linked with the water course reserved by the consolidation department and there would be no problem of water course to any one of the shareholders of the outlet in dispute.”

In view of the stand taken by the respondents in their affidavit dated 04.10.2015, I do not find any reason to interfere in the impugned orders consistently passed by the canal authorities.

Consequently, the present writ petition is hereby dismissed.

October14, 2015

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**(Rakesh Kumar Jain)
Judge**