

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: September 07, 2015

1. *C.W.P. No. 19272 of 2014 (O&M)*

Milkh Raj

... Petitioner

Versus

Chief Canal Officer and others

... Respondents

2. *C.W.P. No. 19322 of 2014 (O&M)*

Sham Chand

... Petitioner

Versus

Chief Canal Officer and others

... Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr. Sanjiv Gupta, Advocate,
for the petitioner(s).

Mr. Rajneesh Chadwal, DAG, Haryana.

Mr. Ashok Verma, Advocate,
for respondent nos. 4 to 6.

Paramjeet Singh, J. (Oral)

This judgment shall dispose of CWP No. 19272 of 2014 titled "Milkh Raj vs. Chief Canal Officer and others" and CWP No. 19322 of 2014 titled Sham Chand vs. Chief Canal Officer and others" as challenge in both the writ petitions is to order dated 08.02.2013

(Annexure P/1) passed by respondent no.3 – Divisional Canal Officer, Ghaggar Water Services Division, Sirsa, order dated 30.09.2013 (Annexure P/2) passed by respondent no.2- Superintending Canal Officer, Bhakhra Water Services Circle, Sirsa and letter dated 26.06.2014 (Annexure P/5) issued by respondent No.1 – Chief Canal Officer, Bhakhra Water Services, Haryana.

Brief facts of the case are that an application for transfer of 38/38 acres of area from outlet No. RD-14100-Tail Baruwali Minor to outlet No. RD 18286-L Darbi Minor, was moved by Des Raj and others. After considering the various aspects, the Divisional Canal Officer transferred the said area vide order dated 08.02.2013 (Annexure P/1), although it is alleged that there was no watercourse in existence. Thereafter, appeal preferred by the petitioners was dismissed by the Superintending Canal Officer vide order dated 30.09.2013 (Annexure P/2). Aggrieved against that order, revisions preferred by the petitioners have been rejected on the ground of delay vide letter dated 26.07.2014 (Annexure P/5). Hence, instant writ petitions.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the parties agree that orders passed by the canal authorities are non-speaking orders. Learned counsel for the

parties have no objection, if the impugned orders are set aside and case is remanded for decision afresh by passing a speaking order.

In view of the statement of learned counsel for the parties, impugned orders dated 08.02.2013 (Annexure P/1), 30.09.2013 (Annexure P/2) and letter dated 26.06.2014 (Annexure P/5) are set aside. The case is remanded to the Divisional Canal Officer to pass a fresh speaking order. It is made clear that Divisional Canal Officer while passing the order shall take into consideration all the aspects including the levels at the spot of both the outlets, percentage of irrigation from each of the outlet, existence of watercourse and other aspects which may be necessary with regard to transfer of area from one outlet to another. Needful shall be done within one month from the date of receipt of certified copy of this order. Parties through their counsel are directed to appear before the Divisional Canal Officer on 28.09.2015.

In the meantime, the parties shall maintain status quo as on today.

Both the writ petitions are disposed of accordingly.

September 07, 2015
vkd

[Paramjeet Singh]
Judge