

In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 21554 of 2015

Date of Decision: October 28, 2015

Rup Singh and another

... Petitioners

Versus

Superintending Canal Officer and others

... Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr. R.K. Shukla, Advocate,
for the petitioners.

Paramjeet Singh, J. (Oral)

Instant writ petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing order dated 14.08.2015 (Annexure P/1) passed by respondent no.1 – Superintending Canal Officer, Patiala IB Circle, Patiala whereby appeal preferred by respondent nos. 3 to 5 has been accepted and order dated 22.01.2015 (Annexure P/2) passed by respondent no.2 – Divisional Canal Officer, Mansa Circle, IB Jawaharke, has been set aside.

Brief facts of the case are that respondent nos. 3 to 5 moved an application before Divisional Canal Officer for change of alignment of watercourse on the ground that watercourse running from the middle

of their land is very deep and the water often leaks into their crops. Respondent nos. 3 to 5 are ready to give the watercourse from Rectangle no.12, Killa Nos. 11-20-21. The Divisional Canal Officer after considering the facts, came to the conclusion that change in the alignment of the watercourse B-C and starting watercourse A-D-C on the eastern watt of Killa Nos. 12//11-20-21 would create curves in the watercourse and the opposite party would have to file kacha watercourse extra of one killa length and rejected the application of respondent nos. 3 to 5 vide order dated 22.01.2015 (Annexure P/2). Against that, respondent nos. 3 to 5 preferred an appeal before Superintending Canal Officer. Vide order dated 14.08.2015 (Annexure P/1), the Superintending Canal Officer allowed the appeal and set aside the order dated 22.01.2015 (Annexure P/2). Hence, this writ petition.

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

The Superintending Canal Officer, after considering the comparative merit of the case, came to the conclusion that there is no change in the length of the watercourse and there is a proposal to construct the entire watercourse pucca.

The pucca watercourse passing through the middle of the land of the respondents is dividing the land of the respondents and

creating hindrance in its cultivation. In the interest of the parties, watercourse has been shifted to one side of the land. Otherwise also, this Court in *Pritam Singh vs. Superintending Canal Officer, Bhakra Main Line Circle, Patiala, 1996 PLJ 287* and *Karnail Singh vs. Superintending Canal Officer, Sirhind Canal Circle, Bathinda, 2015 (1) R.C.R. (Civil) 657* has held that watercourse passing through middle of the land of the owner creates problem in cultivation of the fields of the landowner. Said watercourse was not left at the time of consolidation nor petitioners have paid any compensation. Once the respondents have voluntarily given the watercourse on the one side, the petitioners cannot raise objection that land must be bifurcated to provide straight watercourse. The principle of consolidation and avoidance of bifurcation are fundamental principles for agricultural operations.

In view of above, I do not find any illegality or perversity in the impugned order.

Dismissed in limine.

October 28, 2015
vkd

[Paramjeet Singh]
Judge