

In the High Court of Punjab and Haryana at Chandigarh

**CM-15593-CWP-2015 in/and
CWP No. 22945 of 2015 (O&M)
Date of Decision: December 10, 2015**

Bachan Singh

... Petitioner

Versus

Superintendent Canal Officer and others

... Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

**Present: Mr. G.L. Bajaj, Advocate,
for the petitioner.**

Paramjeet Singh, J. (Oral)

CM-15593-CWP-2015

Having heard learned counsel for the applicant-petitioner and for the reasons recorded in the civil misc. application, the same is allowed. Writ petition is ordered to be restored to its original number and taken up for hearing today.

CWP No. 22945 of 2015

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari

no.2 – Divisional Canal Officer, Faridkot Canal Division, Faridkot and order 17.10.2013 (Annexure P/3) passed by respondent no.1 – Superintending Canal Officer, Sirhind Canal Circle, Ludhiana.

Brief facts of the case are that respondent no.3 – Gurmeet Singh filed an application to the effect that watercourse which has been running through their land is divided their land in two parts. Said watercourse has not been left at the time of consolidation. The alignment of the watercourse be changed. The Divisional Canal Officer, after considering the comparative merit of the case, came to the conclusion that the watercourse is running and as such, creating hindrance in the cultivation and dividing the land of the applicants before the Divisional Canal Officer and has ordered the shifting of watercourse vide order dated 06.12.2011 (Annexure P/2). Against the order of the Divisional Canal Officer, petitioner preferred an appeal before the Superintending Canal Officer. The Superintending Canal Officer vide order dated 17.10.2013 (Annexure P/3) dismissed the appeal. Hence, this writ petition.

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

The Divisional Canal Officer, after considering the

comparative merit of the case, came to the conclusion that if the

alignment of khal is shifted from point ABC to point AC then no harm of any kind would be caused to the land of the opposite party and though the khal at the spot which is running upto point AC is also linking to the land of the opposite party and by which proper irrigation of his land can be done. Said findings have been affirmed by the Superintending Canal Officer. 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 carved out on payment of compensation to respondent no.3. In such circumstances, if the watercourse is dividing the land creating difficulties in cultivation of land and application is made then it is the duty of the authority that they should examine and provide alternative watercourse to the other co-sharers in accordance with law.

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

Dismissed.

December 10, 2015