

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

CWP No.4125 of 2015

Date of Decision:-30.03.2015

Kishan & Ors.

.....Petitioners.

Versus

State of Haryana & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Amit Singla, Advocate for the Petitioners.

JASWANT SINGH, J.(ORAL)

Private respondent no.6 to 10 i.e. Nathu Ram etc., sons of Jag Ram made application before the Divisional Canal Officer, Hisar Water Service Division for transfer of 8.92 acres area from their existing outlet RD-22900/R to outlet RD No.18788-R Kabir Minor of village Mattarsham and Mignikhera under Section 18 Sub Section 2 of the Haryana Canal & Drainage Act, 1974 (for short Act, 1974). It was claimed that the said area was at a higher level and the existing kutchha water course from the pucca water course is in depression due to which their said area was not getting proper irrigation from the existing source.

The Divisional Canal Officer vide order dated 18.12.2013 (P-2) allowed the transfer being nearer to the proposed source and far away from the existing source besides being at a downstream with the condition that the link water channel from the pucca water course available from the

proposed outlet shall be arranged by the beneficiaries at their own level. The present petitioner went in appeal and the Superintending Canal Officer vide order dated 18.06.2014 (P-3) set aside the order P-2 on the ground that the said area was fully irrigated from the tubewell and there was no link water course available from the proposed source. Dissatisfied against the same, the applicants/respondent nos.6 to 10 filed an appeal before the Chief Canal Officer, which has been accepted vide impugned order dated 5.12.2014 (P-4). Hence the writ petition impugning orders dated 18.12.2013 & 05.12.2014 (P-2 & P-4).

Learned Counsel for the petitioner has argued that with the transfer/inclusion of the said area the “*water wari*” of the existing shareholders of the outlet RD-18788-R would decrease. He has next argued that for the transferred area the applicants would now have to dig a new link water course from the existing pucca water course available from the proposed outlet RD-18788-R, the beneficiaries proposed to dig a common Path of village Mattarsham, which is beyond the scope of the Act, 1974.

Having heard learned Counsel for the petitioner at length, this Court finds no ground to interfere with the impugned orders. It is evident from the reading of the impugned orders that the plea of reduction of water for irrigation purposes of the existing share holders of outlet RD-18788-R is totally misplaced, since their rights have been protected by ordering the proportionate increase in release of water on the said outlet. As regards the plea that there is no link water course, the authorities have transferred the area to proposed outlet subject to the beneficiaries making their own arrangement for constructing the link water channel from the existing pucca water course available from the proposed outlet RD-18788-R. In case the

said beneficiaries dig up any village path, which is not permitted as per law the competent authorities would take appropriate action in accordance with law. Therefore, no prejudice at all has been caused to the present petitioners so as to warrant interference by this Court.

In view of the above, finding no ground to interfere in the impugned orders the present writ petition is hereby dismissed.

(JASWANT SINGH)
JUDGE

March 30, 2015
Vinay