

**CWP-7521-2014 and
CWP-10465-2014**

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

Date of Decision: 31.08.2015

1. CWP-7521-2014

Sajjan and others

... Petitioner(s)

Versus

Superintending Canal Officer and others

... Respondent(s)

AND

2. CWP-10465-2014

Vinod Kumar and others

...Petitioners

Versus

Superintending Canal Officer, Ferozepur and others

..Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. D.K.Raheja, Advocate,
for the petitioners in both the petitions.

Mr. Suresh Singla, Addl. A. G. Punjab.

Mr. J.S.Brar, Advocate,
for respondent No.3 in both these petitions.

Paramjeet Singh, J. (Oral)

This order shall dispose of CWP-7521-2014 titled 'Sajjan

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and others vs. Superintending Canal Officer and others' and CWP-10465-2014, titled 'Vinod Kumar and others vs. Superintending Canal Officer, Ferozepur and others', as common questions of fact and law are involved in both the petitions and both these petitions have been filed under Articles 226/227 of the Constitution of India for quashing the order dated 21.02.2014 (Annexure P-3) passed by respondent No.1-Superintending Canal Officer, Canal Circle, Ferozepur whereby order dated 20.06.2012/29.06.2012 (Annexure P-2) passed by respondent No.2-Divisional Canal Officer, rejecting the claim of private respondent, has been set aside.

Brief facts of the case are to the effect that Krishan Kumar, father of respondent No.3 moved application for transfer of 34 acres of land from outlet No.41313-R (41220-R old number) Panjawa Rajbaha to outlet No.6404-L, Panjkosi Minor. The case was prepared and sent to the Sub Divisional Canal Officer for consideration, who after perusing the reports of the Zileदार, Junior Engineer and Patwari concerned, situation at the spot and making a survey, submitted the report for transfer of area from outlet No.41313-R (41220-R old number) Panjawa Rajbaha to outlet No.6404-L, Panjkosi Minor. Respondent No.2-Divisional Canal Officer rejected the claim of father of respondent No.3 vide order dated 20.06.2012/29.06.2012 (Annexure P-2). In the meantime, Krishan Kumar, father of respondent No.3 died and respondent No.3 preferred an appeal before respondent No.1-

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Superintending Canal Officer who set aside the order of the Divisional Canal Officer and the area measuring 16.60 acres was ordered to be transferred from outlet No.41313-R (41220-R old number) Panjawa Rajbaha to outlet No.6404-L, Panjkosi Minor. Hence, both these writ petitions.

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

Learned counsel for the petitioners in CWP-7521-2014 vehemently contended that land has been wrongly added to outlet No.6404-L, Panjkosi Minor, rather it was being properly irrigated from outlet No. 41313-R (41220-R old number) Panjawa Rajbaha.

Learned counsel for the petitioners in CWP-10465-2014 contended that the petitioners were not afforded opportunity of hearing and the impugned order has been passed without following the principles of natural justice.

Per contra, learned State counsel and learned counsel for respondent No.3 vehemently opposed the contentions of learned counsel for the petitioners and supported the impugned orders.

I have considered the rival contentions of learned counsel for the parties.

Perusal of site plan (Annexure P-1) reveals that area measuring 16.60 acres, which has been ordered to be transferred, is nearer to outlet No.6404-L, Panjkosi Minor. Even level at the spot

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indicates that this newly added area will be better irrigated through outlet No.6404-L, Panjkosi Minor. Perusal of site plan also reveals that no change will be required in the size of outlet No. 6404-L due to the addition of aforesaid area as only less than 10% of the total area which is permissible, has been added to this outlet. Otherwise also, the distance of changed area from outlet No.41313-R (41220-R old number) Panjawa Rajbaha is 4334 ft. whereas from outlet No. 6404-L, the distance is 1892 ft. i.e. much less than the distance from outlet No.41313-R (41220-R old number). Once the distance from outlet No. 6404-L is shorter, the natural flow and supply of the water to irrigate the land certainly would be better as compared to the longer watercourse as viscosity and velocity of the water also decrease with the distance. Not only this, the watercourses are pucca, therefore, frictional force also affects the same.

It has been pointed out by learned State counsel in CWP-10465-2014 that out of 14 petitioners, eight petitioners i.e. petitioner Nos.3, 5 to 8, 10, 11 and 14 appeared and defended the case before the canal authorities. Petitioner No.1-Vinod Kumar is the son of petitioner No.10 and petitioner No.2-Radhe Ram is the brother of petitioner No.8-Jeet Ram, who represented and defended the case. Only petitioner Nos.12 and 13 were stated to be not represented. However, it is noticed that all the petitioners were represented at least by one of the co-sharers at one point of time or the other. There is nothing to show that the principles of natural justice have not been followed. Even representation

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by some of the co-sharers is sufficient. In addition to it, it has also been pointed out that *Warabandi* has been fixed and orders have been implemented.

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

Dismissed.

31.08.2015
parveen kumar

(Paramjeet Singh)
Judge