

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

LPA No.1523 of 2015(O&M)

Date of decision:19.10.2015

Sajjan Kumar and others

....Appellants

VERSUS

The Divisional Canal Officer, Hisar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Mr. Ashok Kumar Verma, Advocate for the appellants.

HEMANT GUPTA, J.(Oral)

The present Letters Patent Appeal under Clause X of the Letters Patent is directed against an order passed by learned Single Bench of this Court on 30.09.2015 whereby the writ petition filed by the appellant challenging the shifting of water outlet to RD 43970-R to RD 46100-R remained unsuccessful.

Sadhu Ram-respondent No.4 sought transfer of his area of 10.50 acres from outlet RD 43970-R to outlet RD 46100-R, Balsamand Sub Branch of village Niana for the reason that his area was not getting proper irrigation from the existing outlet. Earlier, the Divisional Canal Officer allowed transfer for the reason that the area in question is 16 killas away from the existing source, but from the proposed source, it is only 6 killas. An appeal filed by the appellant was allowed by the Superintendent Canal Officer on 21.06.1991 but the said order was reversed by the Chief Canal Officer on 27.10.2010. This Court in a writ petition filed by the appellants bearing CWP No.23336 of 2010 set aside the order of the Chief

Canal Officer for fresh decision. It is thereafter, the order (Annexure P-6) was passed on 17.07.2015, the challenge to which remained unsuccessful before the learned Single Bench.

Learned Single Bench has rightly found that the command of the area in question varies from 1.37 feet to 2.07 feet from existing outlet RD 43970-R whereas the command of the area from the proposed outlet at RD 46100-R varies from 0.35 feet to 0.77 feet. It was also found that the water would have better flow at the lower level which is at RD 46100-R.

We have heard learned counsel for the appellants and find no merit in the present appeal. The Chief Canal Officer has examined the flow of the water; the command area and also kept in view the manner of irrigation to the land of respondent No.4-Sadhu Ram. Such issues have been examined by the authorities under the Act in proper perspective. Learned Single Judge has re-examined the entire issue and has found no ground to interfere with the findings recorded by the Chief Canal Officer.

In the present intra-Court appeal, we do not find that any questions of law are raised for consideration. It is only on the facts, the order passed by the Chief Canal Officer and that of the learned Single Judge is disputed. We find that findings of fact cannot be permitted to be disputed in the present intra-court appeal.

We do not find any ground to interfere in the present appeal.

Dismissed.

(HEMANT GUPTA)
JUDGE

OCTOBER 19, 2015
‘D. Gulati’

(RAJ RAHUL GARG)
JUDGE