

CWP-11134-2013(O&M)

Decided on: February 01,2016

Taranjit Singh and othersPetitioners

vs.

Superintending Canal Officer and othersRespondents

Coram: Hon'ble Mr. Justice Mahesh Grover

Present: Ms. Rupinder K. Thind Advocate for the petitioners.
Mr.R.S.Pathania, DAG, Punjab.
Mr. Vijay Sharma, Advocate for respondents no.3 to 5.

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Mahesh Grover, J

The petitioners impugn order dated 01.12.2011 Annexure P9 passed by the Superintendent Canal Officer, I.B Circle, Patiala.

The petitioners are residents of two villages and were being fed by a minor canal which is described as 19950/TL-TR. They pray that irrigation of their fields be shifted from this minor to Ghaggar Branch outlet RD 23850/R.

The Divisional Canal Officer accepted the prayer but in appeal filed by the present private respondents, it was upset.

The Divisional Canal Officer had observed that the villages fell at the tail end where there is normally insufficient water but it also has the problem of excess water when the need is reduced. He further opined that the underground water table in the area is low and the irrigation would be largely dependant upon canal water. He further noticed that the applicants before him were small land owners and could not bear the costs of deep borewell and after consideration of the above relevant material including the recommendation made by the SDO Dyalpura and comparative command statement made by the Junior Engineer of the same area and keeping in view the betterment of irrigation recommended the transfer to new outlet RD-23850/R of Ghaggar branch from the present arrangement RD-19950/ TL-TR and 643 TL. Infact entire area of 526/452 acres from this outlet 19950/ TL and 643/585 acres from RD 19950/TR was directed to be transferred to the Ghaggar branch with a further direction

that the applicants would arrange for the expenses of underground pipes to take the

water from the sanctioned outlets.

In the appeal preferred by the present private respondents, the competent authority while upsetting the order of Divisional Canal Officer has not really addressed the issue which was touched open by the Divisional Canal Officer while commenting on the betterment of irrigation.

The grievance of the private respondents stems from the fact that if the change is permitted as recommended by the Divisional Canal Officer their land is likely to be at the tail end of the minor which would thus receive abundant water when not needed resulting in damage to the crops.

I have heard the learned counsel for the parties and perused the site plan and am of the opinion that the order of the Divisional Canal Officer is well reasoned and deserves to be upheld in preference to the orders passed by the subsequent authorities upsetting it.

A perusal of the site plan indicates that most of the portion of land belonging to the villages of the applicants falls alongside the Ghaggar branch RD-23850 R and, therefore, the interest of betterment of irrigation would dictate access to this outlet rather than submitting them to the outlet RD 19950/TL-TR where their land falls at the tail particularly when the petitioners are ready to bear the expenses of underground pipes. It is also to be noticed that irrigation through underground pipes always results in economic use of water leading to conservation and should be encouraged. If the respondents have some residual grievances, the authorities may take appropriate decisions qua their concerns of excess water in times of less demand.

The writ petition is accepted and the impugned order dated 01.12.2011 Annexure P9 passed by the Superintendent Canal Officer, I.B Circle, Patiala is set aside and the order of Divisional Canal Officer is restored.

February 01,2016
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(MAHESH GROVER)
JUDGE