

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

**Civil Writ Petition No. 13264 of 2016
Date of Decision: 12.7.2016**

Chander Bhan and another

....Petitioners.

Versus

Chief Canal Officer, Bhakra Water Services, Irrigation and WR Department,
Haryana, and others

.....Respondents.

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. R.N. Lohan, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK J. (ORAL)

Feeling aggrieved against the impugned order dated 23.5.2016 (Annexure P-4) passed by the Chief Canal Officer, BWS, Irrigation and WR Department, Haryana, Panchkula, whereby land measuring 11 acres owned by respondent No.4 was transferred from outlet RD 34750-R to RD 26000/R NSK Minor, petitioners have approached this Court by way of present writ petition under Sections 226/227 of the Constitution of India, seeking a writ in the nature of Certiorari.

Learned counsel for the petitioners submits that transfer of land measuring 11 acres owned by respondent No.4 was wholly unwarranted. He

further submits that the said transfer of land shall cause serious prejudice to the petitioners because quantity of water of their share shall reduce and they will not be in a position to irrigate their fields properly. He prays for setting aside the impugned order passed by respondent No.1, by allowing the present writ petition.

After hearing learned counsel for the petitioners and going through the record of the case, including the impugned order (Annexure P-4), this Court is of the considered opinion that no prejudice, as a matter of fact, has been caused to the petitioners and the instant writ petition is wholly misconceived which is liable to be dismissed.

A bare perusal of the impugned order passed by respondent No.1 would show that it has been passed only in the interest of better irrigation. The Chief Canal Officer-respondent No.1 recorded sound reasons in support of his order which deserves to be upheld. Operative part of the impugned order deserves to be noticed here and the same reads as under:-

“After hearing the arguments of both the parties consulting the khaka plan, decision dated 27.10.2014 passed by the Superintending Canal Officer BWS Circle Kaithal and all other relevant record placed before the court, it is observed that although irrigation of area in question is 170% but this is mixed irrigation with the help of tubewell as shown in khaka plan. The appellant has dug underground pipeline for irrigation through tubewell. The pucca watercourse of outlet RD 26000/R NSK Minor touches the holding of appellant. Moreover the area in question is only 11/11 acre which is less than 10% of either chak and hence

will not require change in design of watercourse of outlet.

Hence it is decided that demand of appellant is genuine and is accepted. The transfer of 11/11 acre area from outlet RD 34750/R to RD 26000/R NSK Minor is allowed. The decision of SCO dated 5.12.2014 is set aside.”

Although nothing has been pointed out either in the pleadings or during the course of hearing that how much water from the share of the petitioners shall be reduced by implementing the impugned order, yet even if it is assumed that 10% of water out of share of the petitioners shall be reduced, still they shall have more than 100% irrigation for their fields. It is so said because the Chief Canal Officer has recorded in the impugned order that irrigation of the area in question was 170% whereas the Superintending Canal Officer, in his order Annexure P-3, has recorded the irrigation of the area in question as 123%.

Be that as it may, it is clear from the combined reading of the impugned order as well as order Annexure P-3 that petitioners would certainly have more than 100% irrigation for their fields even after implementation of the impugned order, therefore, no prejudice will be caused to the petitioners.

In fact, arguments raised by learned counsel for the petitioners are based on technicalities alone. This was the reason that learned counsel for the petitioners could not substantiate any of his arguments during the course of hearing. Neither any prejudice has been shown to have been caused to the petitioners, as noticed hereinabove, nor the impugned order has been found suffering from any patent illegality which may warrant interference at the hands of this Court.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present writ petition is misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, instant writ petition stands dismissed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

12.7.2016
AK Sharma