

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.15250 of 2016
Date of decision: 01.08.2016

Kanwar Sain and others

... Petitioners

Vs.

Chief Canal Officer and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. P.S. Jammu, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (ORAL)

Present writ petition is directed against the order dated 18.07.2016 (Annexure P-3) passed by Divisional Canal Officer, whereby the order dated 16.06.2016 (Annexure P-2) passed by Chief Canal Officer, was sought to be implemented, by transferring land measuring about 63 acres at outlet RD 12700-L on Suli Khera Minor.

Heard learned counsel for the petitioners at considerable length.

When the private respondents were facing difficulty because of deficiency of water for irrigating their fields, they approached the respondent canal authorities, seeking transfer of their land measuring about 63 acres from RD 10200-R to RD 12700-L on Suli Khera Minor, through syphon under the channel at RD 12680-R Suli Khera Minor. Requisite approval for transfer was granted by the Chief Canal Office-respondent No.1 vide impugned order dated 16.06.2016 (Annexure P-2), subject to the condition that adjustment of the

existing outlet and installation of syphon as well as re-modelling of watercourse, if any, shall be borne by the beneficiaries at their own cost.

When the abovesaid order was sought to be implemented by the Divisional Canal Officer, he heard all the would be affected parties including the petitioners. He also examined all the relevant aspects of the matter including the technical aspects. Thereafter, he recorded his cogent findings based on the relevant official record and passed the impugned order dated 18.06.2016 (Annexure P-3). Since the abovesaid impugned orders (Annexures P-2 and P-3) have been found well justified as per peculiar fact situation obtaining on the record and also in accordance with law, the same deserve to be upheld. The writ petition having been found without any merit, is liable to be dismissed, for the following more than one reasons.

Before proceeding further, the findings recorded by Divisional Canal Officer, which have been found duly supported by sound reasons, deserve to be noticed here and the same read as under: -

“I have carefully examined the record including Khaka Plan, comparative command statement & considered the statement of the parties. From perusal of Khaka plan & comparative command statement, it is noticed that there is nominal difference in the command of the area from both the outlets & the water course through the existing source is not running upto most of the area in question. It reveals that the area under transfer can get proper irrigation from the proposed source, if the efforts are made by the applicants & the water is made available by the department.

Keeping in view of the above, the demand of the applicants is considered genuine, hence accepted. Therefore transfer of

63.54/59.36 acres area comprising in field Nos.157/16-17-18-23/1-23/2-23/3-24-25/1-25/2, 158//11/1-12/1-19/2-20-21/1-21/2-22/2, 15-//1-2-3/1-8/2-9 to 12-13/1/1-19 to 22, 160//1 to 11-20/1-20/2-21/1-21/2-13 to 19-22 to 25, 161//4-5-6-15-16-22/2-23/1-23/2-24/1-24/2-25/1-25/2, 201//2/2/1-2/2/2-3/1-3/2-4/1-4/2-5-8-9, 202//1 to 4/1, 203//2 from the chak of outlet R.D. 10200-R Suli Khera Minor to the chak of outlet R.D. 12700-L Suli Khera Minor through syphon under the channel at R.D. 12680 Suli Khera Minor is approved, at the cost of the applicant. The arrangement of water course will be done by the beneficiaries themselves. The decision is subject to confirmation by the S.C.O., B.W.S. Circle Fatehabad.”

During the course of hearing, when a pointed question was put to learned counsel for the petitioners as to what prejudice has been caused to the petitioners, by passing the impugned orders, he has nothing to say and rightly so, it being a matter of record. It has been specifically recorded in both the impugned orders that the arrangement of watercourse will be made by the beneficiaries (private respondents herein) themselves and whatever shall be the expenses, it will be borne by the beneficiaries only.

Further, while transferring the land of private respondents from outlet RD No.10200-R Suli Khera Minor to the outlet RD 12700-L it has been ordered only through syphon under the channel at RD 12680-R Suli Khera Minor and that too at the cost of the beneficiaries. By this arrangement neither any water would be wasted nor any kind of prejudice is likely to be caused to the petitioners. It is also true that the canal authorities are experts in their line and unless the orders passed by them are found to be patently illegal or

perverse, this Court would be slow to interfere in the factually correct and legally justified orders passed by the canal authorities.

So far as the present case is concerned, learned counsel for the petitioners could not point out any patent illegality or perversity in either of the impugned orders passed by the respondent canal authorities. No prejudice of any kind has been shown to have been caused to the petitioners, so as to warrant any interference at the hands of this Court, while exercising its writ jurisdiction under Article 226/227 of the Constitution of India.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the impugned orders passed by the respondent canal authorities deserve to be upheld. Ordered accordingly. Present writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the observations made above, present writ petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

01.08.2016

vishnu

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No