

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CWP No.16889 of 2016
Date of decision:22.8.2016**

Kesar

...Petitioner

Versus

The Superintending Canal Officer, Ferozepur
Canal Circle, Ferozepur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Peeush Gagneja, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the alleged inaction on the part of respondent authorities, petitioner has approached this Court by way of instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of mandamus.

Learned counsel for the petitioner submits that when the order dated 08.07.2016 (Annexure P-2) was passed against the petitioner by the Divisional Canal Officer, Abohar Canal Division, Abohar-respondent No.2, she filed her statutory appeal vide Annexure P-3 and also an application for stay vide Annexure P-4 before the Superintending Canal Officer, Ferozepur Canal Circle, Ferozepur-respondent No.1. He further submits that on the one hand appeal as well as stay application moved by the petitioner vide Annexures P-3 and P-4, respectively, are not being taken up for hearing and on the other hand impugned order dated 08.07.2016 (Annexure P-2) is being sought to be implemented against the petitioner. If the impugned order dated 08.07.2016 (Annexure P-2) is implemented, appeal of the petitioner would be rendered infructuous. He submits that petitioner is seeking a limited relief by way of writ of mandamus, directing the appellate authority-

respondent No.1 to consider the statutory appeal of the petitioner within a reasonable time and till the stay application of the petitioner is taken up and decided, the order dated 08.07.2016 (Annexure P-2), which is under challenge in appeal, may not be implemented.

Having heard the learned counsel for the petitioner and without expressing any opinion on the merits of the case, lest it should prejudice the rights of either of the parties, the present writ petition is disposed of, with a direction to the Superintending Canal Officer, Ferozepur Canal Circle, Ferozepur–respondent No.1, to take up at least the stay application moved by the petitioner vide Annexure P-4 at an early date and decide the same, by passing an appropriate order thereon, in accordance with law. Appellate authority-respondent No.1 shall be at liberty to take up the appeal as well and decided it expeditiously, in accordance with law.

However, keeping in view the peculiar facts and circumstances of the case noted above, it is directed that till the stay application moved by the petitioner vide Annexure P-4 is considered and decided, the order dated 08.07.2016 (Annexure P-2), passed by the Divisional Canal Officer, Abohar Canal Division, Aboar – respondent No.2, shall remain in abeyance, so as to ensure the statutory appeal of the petitioner is not rendered infructuous.

With the above-said observations made and directions issued, the instant writ petition stands disposed of.

22.8.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No