

CWP- 19893-2014

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

**CWP- 19893-2014
Date of Decision: 06.04.2016**

Jalandhar Singh

... Petitioner(s)

Versus

Superintending Canal Officer, Ferozepur and others

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. S.P.S.Tinna, Advocate,
for the petitioner.

Mr. B.M.Vinayak, DAG, Punjab.

Mr. S.K.Arora, Advocate,
for respondent Nos.5 and 6.

Paramjeet Singh Dhaliwal, J.

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari thereby quashing the order dated 28.07.2014 (Annexure P-3) passed by respondent Nos.1 and 2 jointly and the order dated 01.10.2013 (Annexure P-2) passed by respondent Nos.3 and 4 whereby transfer of area from

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Outlet No.7265-TF Warring Sarai Naga Sub Minor to Lift Pump Outlet No.218515-L Sirhind Feeder has been ordered.

Brief facts of the present case are to the effect that respondent No.5-Nar Singh filed application that their land measuring around 3 acres be transferred from outlet No.7265-TF Warring Sarai Naga Sub Minor, Faridkot Canal Division to Lift Pump Outlet No.218515-L Sirhind Feeder, Abohar Canal Division. The matter was referred to the Sub Divisional Officer, who further referred it to Zileadar for inquiry. The site plan was prepared with regard to land to be included. Thereafter, Zileadar concerned sent report to the Sub Divisional Officer with a recommendation that area of applicant measuring 23 kanals 8 marlas be transferred from outlet No.7265-TF Warring Sarai Naga Sub Minor, Faridkot Canal Division to Lift Pump Outlet No.218515-L Sirhind Feeder, Abohar Canal Division. The Sub Divisional Officer agreed with the report of Zileadar and recommended for the transfer of area. Thereafter, scheme was prepared and notices were issued to the affected parties. Respondent Nos.3 and 4 i.e. Divisional Canal Officer, Abohar Canal Division, Abohar and Divisional Canal Officer, Faridkot Canal Division, Faridkot heard the objections of the concerned parties and ultimately vide impugned order dated 01.10.2013 (Annexure P-2) jointly ordered transfer of 2.92 acres of land from outlet No.7265-TF Warring Sarai Naga Sub Minor, Faridkot Canal Division to Lift Pump Outlet No.218515-L Sirhind Feeder, Abohar Canal Division, subject to

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fulfilling of conditions such as approval from the competent authority etc. Feeling aggrieved against that, the petitioner herein filed appeal before respondent Nos.1 and 2 i.e. Superintending Canal Officer, Ferozepur Canal Circle, Ferozepur and Superintending Canal Officer, Sirhind Canal Circle, Ludhiana on the ground that no further area can be added in the lift pump because from the lift pump, the water is carried forward by way of pipes and size of the pipes cannot be increased. Respondent Nos. 1 and 2 dismissed the said appeal vide impugned order dated 28.07.2014 (Annexure P-3). Hence, this writ petition.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner vehemently contended that lift pump is only sanctioned for 167.60 acres and with the addition of 2.92 acres, its area becomes 180.62 approximately, therefore, new area cannot be added to it. The petitioner is taking water from lift pump to his fields by pipes and size of pipes cannot be increased. For the lift pump, a committee was constituted, but respondent Nos.5 and 6 did not deposit any amount, therefore, the impugned orders may be set aside.

Per contra, learned State counsel and learned counsel for respondent Nos.5 and 6 vehemently opposed the contentions of learned counsel for the petitioner and defended the impugned orders. Respondent Nos.5 and 6 are not getting better irrigation from the existing outlet and they are ready to bear the expenses to be incurred for putting

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the pipes or watercourse whichever is necessary. Moreover, addition of 2.92 acres which is less than 10% of the permissible area, is in accordance with law.

I have considered the rival contentions of learned counsel for the parties.

Admittedly, the area of private respondents comes at the end of tail as a result of which they are not getting proper irrigation. Earlier lift pump was working temporarily. Now the shareholders of lift pump are used to get water from both outlets. The lift pump has been fixed on permanent basis whatever expenses of putting the pipes and watercourse that will be incurred by the applicant(s). Even if the pipes are for 167.60 acres but with the extension of pipes to the fields of applicant, only duration of running of lift pump will be required to be increased and there will be no loss to the petitioner. Otherwise also, there is a margin of 10% addition of area to the underground pipes which are just close to the watercourse. In this manner, there will be only extension of pipes upto the fields of private respondents and they will have to bear the proportionate costs for the already existing pipes.

Sh. Vijay Pal Mann, Divisional Canal Officer, who appeared in Court in another case, assisted the Court at the time of hearing this case and stated that he had been working earlier in Faridkot Canal Division where the underground pipe irrigation is being done and if the aforesaid extension is done in the existing pipes to other fields, other

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persons will not be affected because time duration of running the pump is increased. For example, if two hours were assigned for 167.60 acres of land, then on addition of 2.92 acres, extra time will be given as per the fixed norms and pump will run for more than two hours. Furthermore, Form-A has already been approved as per the alteration and the same has been taken on record. Moreover, the matter has been examined and impugned orders have been passed by the two Divisional Canal Officers and two Superintending Canal Officers.

In view of the above, I do not find any illegality or perversity in the impugned orders.

Dismissed.

06.04.2016

parveen kumar

(Paramjeet Singh Dhaliwal)
Judge