

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

CWP No.22935 of 2013
Date of decision : 05.04.2017

Jasvir Pal

...Petitioner

Versus

Superintending Canal Officer and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Aman Dhir, Advocate for the petitioner.

Mr. Yatinder Sharma, Addl. A.G. Punjab.

Mr. B.S. Aulakh, Advocate for respondent No.4.

AMIT RAWAL, J. (Oral)

CM No.4155-CWP of 2017

For the reasons stated in the application, which is duly supported by an affidavit, application is allowed.

Site plan showing the scheme of irrigation between the parties i.e. Annexure A-1 is taken on record, subject to all just exceptions.

Main Case

The petitioner is aggrieved of the impugned order dated 11.07.2013 (Annexure P-3) rendered by respondent No.1-Superintending Canal Officer, whereby the order of Divisional Canal Officer of clubbing the water outlet with *khata* No.95 has been set aside, whereby his request for consolidation of turn of water in *khata* No.95 owing to the purchase of

the land measuring 43 kanals 12 marlas in *khata* No.97 and 14 kanals 16 marlas in *khata* No.98 had been allowed by the Collector which was appealed before the Divisional Canal Officer who while passing a speaking order dismissed the same.

Mr. Aman Dhir, learned counsel appearing on behalf of the petitioner submits that as per the site plan (Annexure A-1), all the water courses have been consolidated to *khata* No.95, whereas land belonging to private respondents is *khata* No.99. It is before *khata* No.98 and, therefore, the water course would be automatically filled with the water which reached to the *khata* No.98. This aspect has totally been ignored by the Superintending Canal Officer, therefore, order is not sustainable being opaque and arbitrary.

Per Contra, Mr. B.S. Aulakh, learned counsel appearing on behalf of respondent No.4 submits that respondent would have undertake more exercise of obtaining *khal* as owing to the travelling of water in the *khal* for the purpose of supply, no prejudice has been caused to the petitioner.

I have heard learned counsel for the parties and appraised the paper book and of the view that order of the Superintending Canal Officer is not sustainable, much less, illegal, arbitrary and cryptic, for, on simple glance of the site plan (Annexure A-1), there is already a water course going through the *khata* No.99 belonging to the land of the respondent(s). Though, the petitioner is also owner of the piece of land in *khata* No.97 and earlier is owner of land measuring 4 kanals 8 marlas in *khata* No.96. Even there is request for many outlets. The supply of the *khata* should have been

from *khata* No.95 as considered by the Divisional Canal Officer, much less, District Collector. The apprehension of the respondents, in my view, is too remorse and misplaced for *khata* No.99 comes before *khata* No.98, so *khal* would be filled by water. This fact has totally been ignored by the authorities below.

For the reasons aforementioned, impugned order dated 11.07.2013 (Annexure P-3) rendered by respondent No.1-Superintending Canal Officer is hereby set aside and that of the Divisional Canal Officer is restored.

Accordingly, present writ petition stands allowed.

05.04.2017

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No