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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 22.03.2017

1.

CWP-21789-2015

Ram Singh and another

... Petitioners

Versus

Superintendent Canal Officer and others

... Respondents

2.

CWP-26041-2015

Jaswant Singh and others

... Petitioners

Versus

Superintendent Canal Officer, Ferozepur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. A.K. Khunger, Advocate
for the petitioner(s) in CWP-21789-2015.

Mr. C.M. Munjal, Advocate
for the petitioner(s) in CWP-26041-2015.

Ms. Monica Chhibber Sharma, DAG, Punjab.

Mr. Sandeep Khunger, Advocate
for respondent Nos.3 and 4.

AMIT RAWAL, J. (ORAL)

This order of mine shall dispose of two writ petitions bearing

CWP No.21789 of 2015 titled as **“Ram Singh and another V/s**

Superintendent Canal Officer and others” and **CWP No.26041 of 2015**

titled as **“Jaswant Singh and others V/s Superintendent Canal Officer, Ferozepur and others”**.

The facts are being taken from CWP No.21789 of 2015s.

The petitioner(s) have approached this Court seeking quashing of the order dated 08.04.2011 (Annexure P-7) rendered by the Superintending Canal Officer, Ferozepur, Canal Officer, Ferozepur, allowing the appeal of respondent Nos.3 & 4 by setting aside the order of the Divisional Canal Officer/respondent No.2 and also order dated 03.06.2015 (Annexure P-8) passed by respondent No.1 dismissing the review application.

Mr. A.K. Khunger and Mr. C.M. Munjal, learned counsel appearing on behalf of the petitioner(s) in CWP No.21789 of 2015 & CWP No.26041 of 2015, respectively, submits that both the petitioner(s) and the respondent Nos.3 & 4 were having their agricultural land situated in the area of Village Ramsara, Tehsil Abohar, District Fazilka and the source of irrigation is Canal Water, whereas the land of the private respondent(s) i.e. respondent Nos.3 & 4 is attached with outlet No.30522/R Ramsara Minor, whereas the land of the petitioner(s) is attached with outlet No.29100/R Ramsara Minor. The private respondent(s), who were getting the proper irrigation from the existing outlet No.30522/R for so many years, much less, having no hindrance, moved an application for transferring of land from Outlet No.30522/R to 29100/R. The said application was sent to the Zileadar and Sub-Divisional Officer for the report. The objection to the aforementioned report was submitted on the premise that due to transfer of the area, their turn of water would decrease. Resultantly, the Divisional

Canal Officer vide order dated 27.01.2009 ordered for shifting of the area from outlet No.30522/R to outlet No.29100/R. The appeal against the aforementioned order was preferred by the petitioner(s) to respondent No.1, who vide order dated 07.01.2010 dismissed the same, which was assailed before this Court by filing a writ petition bearing CWP No.2037 of 2010. The same was disposed of vide order dated 08.02.2010 (Annexure P-5) by issuing a direction to decide the matter afresh.

However, according to the arguments of Mr. C.M. Munjal and Mr. A.K. Khunger, learned counsel appearing on behalf of the petitioner(s), the Superintending Canal Officer has committed the same illegality and perversity in not appreciating the fact, aforementioned. However, the Divisional Canal Officer vide order dated 19.10.2010 (Annexure P-6) rejected the scheme of respondent Nos.3 and 4 and set aside the earlier order. Respondent Nos.3 and 4 preferred an appeal before the Superintending Canal Officer, who has erroneously and illegally accepted the same vide impugned order dated 08.04.2011 (Annexure P-7). Even a review application filed was also dismissed vide order dated 03.06.2015 (Annexure P-8). The findings arrived at with regard to the fact that the area measuring 15.32 acres being declared as un-commanded from commanded area in the year 2003 and while deciding the present controversy on area of 13.53 acres, has been added, have totally been erroneous. The reasoning assigned is totally baseless and is not backed by the reasons, much less, cogent reasons.

Per contra, Mr. Sandeep Khunger, learned counsel appearing on behalf of the respondent Nos. 3 and 4 submits that the order dated

19.10.2010 (Annexure P-6) of the Divisional Canal Officer, after the remand by this Court, is totally erroneous and fallacious and rightly so, has been set aside by the Superintending Canal Officer as the Divisional Canal Officer has erroneously passed the order that the applicants/respondent(s) were enjoying the irrigation of land to outlet No.30522/R and no change of circumstances had been explained, but the Superintending Canal Officer, after examining the entire record/statements of the parties and the factual aspects, held that with the transfer of the area measuring 13.53 acres, the proposed outlet would not be reduced as earlier in the year 2003, the area measuring about 15.32 acres was already taken out, thus, urges this Court for upholding the orders, under challenge.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is no force and substance in the submissions of Mr. C.M. Munjal and Mr. A.K. Khunger, learned counsel appearing on behalf of the petitioner(s), for, the factum of taking out the area of 15.32 acres as way back in the year 2003, is not in dispute. This area was taken out from outlet No.29100/R, therefore, the application for sanctioning the scheme for shifting the area, which is less than the previous one i.e. 13.53 acres has rightly been allowed by declaring as commandable to un-commandable. The order of the Superintending Canal Officer is in consonance with the factual aspect, much less, record, whereas the Divisional Canal Officer had gone in the arena of surmises and conjectures and rightly so, had been set aside vide impugned order dated 08.04.2011 (Annexure P-7) and the review petition has also been dismissed on this premise.

Keeping in view the aforementioned facts, I do not find any illegality and perversity in the impugned order dated 08.04.2011 (Annexure P-7) and order dated 03.06.2015 (Annexure P-8) rendered by the Superintending Canal Officer/respondent No.1, much less, no ground is made out for interference and accordingly, the same are upheld.

Resultantly, the present writ petition is dismissed.

22.03.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No