

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

**CWP No.17685 of 2017
Date of Decision: 10.08.2017**

Shamsher Singh and another

....Petitioners

Vs.

Chief Canal Officer, Bhakra Water Services, Irrigation Department,
Haryana and others

....Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.R.N. Lohan, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J.

The petitioners are allegedly the shareholders of outlet RD 18500/L. The area of the said outlet is stated to be 194 acre and command area is 168 acre. The land owned by the petitioners is near the head of outlet RD 18500/L New Sainthly Minor. It is stated that the said outlet is low lying and the water from the watercourse from outlet RD 18500/L overflows in the field of the petitioners, therefore, they had filed an application to respondent No.3 for the purpose of shifting of the outlet RD 18500/L New Sainthly Minor to outlet RD 750/R 2-L Sainthly Minor. It is also stated that the petitioners had agreed to lay down the watercourse at their own cost from point A to B to link the already running lined watercourse and the other share holders will not be prejudiced in the event of shifting. It is further alleged that the request made by the petitioners was allowed by respondent No.3 on 16.3.2015. However, respondent No.2 vide his order dated 28.4.2015 set aside the order dated 16.3.2015 on the ground

that the order passed by respondent No.3 is not technically feasible. The petitioners filed appeal before respondent No.1. The appeal was allowed on 22.9.2016. However, respondents No.4 to 19 filed CWP No.22399 of 2016 which was allowed and the matter was remanded back to respondent No.1 to decide afresh. After remand, respondent No.1 dismissed the appeal of the petitioners.

Learned counsel for the petitioners has submitted that respondent No.1 has passed the orders on the basis of conjecture and surmises as respondent No.1 has observed that the overflow might be due to excess discharge by the existing outlet and did not care to inspect the site and examine the record and stated that the shifting of the outlet is not a solution of overflow watercourse otherwise the shifting is the best solution because in that way length of the watercourse would be reduced to 3 killas and it would be in the interest of all the shareholders.

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

The petitioners had earlier also filed CWP No.13013 of 2017 which was got dismissed as withdrawn with liberty to file it afresh vide order dated 3.8.2017.

Be that as it may, the Chief Canal Officer, after remand, has passed a detailed order giving reasons to not to agree with the petitioners.

The said reasons are reproduced as under: -

*“It has been observed that the outlet at RD
18500/L New Sainthly Minor has been fixed
at site for the last many years and the entire
area of this outlet is getting proper*

irrigation at site. The watercourses in the chak of the existing outlet at RD 18500/L New Sainthly Minor are lined at site. That the majority of the shareholders has made demand to restrain their outlet at RD 18500/L New Sainthly Minor and only 2 shareholders, in whose land the present outlet has been fixed have made demand to shift the head of existing outlet from RD 18500/L New Sainthly Minor to RD 750/L 2-L Sainthly Minor. The main problem of the appellants as stated by them is of overflowing the lined watercourse and it might be due to drawing excess discharge by the existing outlet and the same can be rectified at site. The shifting of head of the existing outlet from RD 18500/L New Sainthly Minor to RD 750/R 2-L Sainthly Minor is not a solution of overflowing of watercourse. And the same can be rectified by repairing the lined watercourse or by reducing the excess discharge if any for which direction is hereby issued to the Executive Engineer, Narwana W.S. Division, Narwana to observe the discharge of the outlet.”

I am in full agreement with the reasons assigned by the Chief Canal Officer and thus the present petition is found to be without any merit and the same is hereby dismissed.

10.08.2017

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No