

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.25346 of 2017

Date of Decision: November 08, 2017

Resham Singh

. . . . Petitioner

Vs.

The Superintending Canal Officer, Ferozepur and others

. . . . Respondents

CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr.Neeraj Madan, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J.

The petitioner has challenged the order dated 3.5.2017 passed by the Divisional Canal Officer, Eastern Canal Division, Ferozepur [hereinafter referred to as 'the DCO'] and the order dated 31.8.2017 passed by the Superintending Canal Officer, Ferozepur Canal Circle, Ferozepur [hereinafter referred to as 'the SCO'].

Learned counsel for the petitioner has submitted that the petitioner is a small land owner, having his turn of water at Sr. No.55 of warabandi, shown at point 'B' in the site plan. The private respondents are also having their turn of water sanctioned at point 'B' of outlet No.36400/L Rajbaha Kalewala and the Collector on the application of respondent No.7 proposed the warabandi by amending the turn of water but the Deputy Collector vide his order dated 6.9.2016 declined the proposed warabandi on the objection raised by the petitioner. The said order was challenged by respondent No.4 in appeal before respondent No.2. Respondent No.2 allowed the appeal with the following order: -

“Appellant who came present and respondent were heard in details, record was examined, field staff apprised that the proposed warabandi under Section 68 produced by them before the Deputy Collector was in view of better irrigation, it was rightly made and except the appellant, no other co-sharer has raised any objection regarding the turn and the “Nakkas” were also carved properly. No land in the warabandi has been left to whom water has not been provided. As stated by the field staff, the record was also examined. After examination of the case and keeping in view of best irrigation and as stated by the field staff record was examined, as per record the decision rendered by Deputy Collector is not in detail. Therefore, while initiating proceedings according to section 68(5) of the Canal Act, while allowing the appeal of the appellant and the decision rendered by Deputy Collector, Eastern Canal Division, Ferozepur, decision dated 06.09.2016/07.11.2016 is being set aside and according to the prayer of the appellant warabandi at No.54 the turnoff

Baljinder Kaur W/o Suhkchain Singh has been approved fro 3.50 acres of area for taking water at Nakka i.e. Killa 16 of Murabba 12, Killa 11 of Murabba 55 and for giving water from Killa 13-17 of Murabba 12 and at serial No.54/1 the turn of Manjit Kaur w/o Sukhtaj Singh for 03.50 acres area for taking water at Killa 13-17 of Murabba No.12 and for giving water at Killa 16 of Murabba No.12, Killa No.11 of Murabba No.55 has been approved.”

Aggrieved against the said order, the petitioner also filed appeal before the SCO but his appeal was dismissed on 31.8.2017 with the following order: -

“The entire record of the case was examined very carefully. Map of the spot was also examined. After examining the record for quite a while this Court has found that the prayer of the appellant is not acceptable because according to the demand of appellant Resham Singh etc. the decision which has been rendered on dated 06.09.2016/07.11.2016 by Deputy Collector, Eastern Canal Division, Ferozepur, said decision is not in details as per record and

according to the decision made by Divisional Canal Officer, Eastern Canal Division, Ferozepur for the irrigation of the area of the appellant, turn has been fixed at point 'A' and according to the record of warabandi of point 'A' he has got 5 minutes for filing. By fixing the turn of the appellant at point 'A', the appellant will not suffer any loss in irrigation. The decision rendered by Divisional Canal Officer, Eastern Canal Division, Ferozepur was examined and the Court has rendered absolutely correct decision keeping in view of above mentioned facts. This Court is agrees with the said decision. Therefore, Northern Indian Canal and Drainage Act 8 -1873 and under Section 68(6) of the Punjab Amendment Act 23 of 1965 for the better irrigation of the respondents being agree with their demand and while dismissing the appeal of the appellants at No.54 the turn of Baljinder Kaur W/o Sukhchain Singh has been approved for 03.50 Acers of area for taking water at Nakka i.e. Killa 16 of Murabba 12, Killa 11 of Murabba 55 and for giving water

from Killa 13 – 17 of Murabba 12 and at serial No.54/1 the turn of Manjit Kaur w/o Sukhtaj Singh for 03.50 Acres area for taking water at Killa 13-17 of Murabba 12 and for giving water at Killa 16 of Murabba No.12, Killa No.11 of Murabba No.55 has been approved. Meaning thereby the orders passed by Divisional Canal Officer, Eastern Canal Division, Ferozepur dated 03.5.2017 itself is being upheld.”

Learned counsel for the petitioner has vehemently argued that the DCO and SCO have passed non-speaking and cryptic orders. But after a careful reading of the impugned orders and perusal of the site plan appended with the petition, I have come to the conclusion that there is no error in the impugned orders which calls for an interference of this Court and hence, the present petition is hereby dismissed.

NOVEMBER 08, 2017

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No