

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

**CWP No.6386 of 2014  
Date of decision:17.05.2017**

Daleep Singh and others ... Petitioners

Vs.

State of Haryana and others ... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. Manoj Sharma, Advocate, for  
Mr. Amit Khatkar, Advocate  
for the petitioners.

Mr. Rajbir Singh, AAG, Haryana.

Mr. Vijay Pal, Advocate  
for respondent No.5.

**AMIT RAWAL J.**

The petitioners three in number have sought the quashing of the orders dated 29.02.2008 (Annexure P-4) and 20.12.2013 (Annexure P-5) rendered by the Superintending Canal Officer and the Chief Canal Officer respectively while dismissing the appeal.

Mr. Manoj Sharma, learned counsel appearing on behalf of the petitioners submitted that already on two occasions, i.e., in the years 1987 and 1989, the appeal of similarly situated shareholders for transfer of some land from Chak of outlet RD 22956-L to 25240-L Balak Minor, had been rejected. Annexure P-1 and Annexure P-2 are proof of the same. However, the same very issue was again raised by the private respondents by filing an application but the Divisional Canal Officer has rejected the same by passing a speaking and well reasoned order dated 21.03.2007 (Annexure

P-3) which was impugned by the private respondents before the Superintending Canal Officer, who vide order dated 29.02.2008 (Annexure P-4) allowed the appeal. The petitioner filed an appeal against the aforementioned order before the Chief Canal Officer but the same has been dismissed vide order dated 20.12.2013 (Annexure P-5). He, thus, submitted that the impugned orders are not sustainable in the eyes of law on the following grounds:-

- i) Vide orders dated 21.08.1987 (Annexure P-1) and 28.09.1989 (Annexure P-2), transfer of the land from the aforementioned Chak had already been rejected.
- ii) The land in question is already well irrigated and already having a irrigation of 170% against the projected intensity of Bhakra Canal, i.e., 62%, therefore, the transfer is not warranted.
- iii) The average irrigation at the existed outlet is 176% and on the proposed outlet is 184%, whereas, the irrigation is 170% at the land in question, thus, the observation in the impugned orders are totally contradictory and off the record.

He further submits that the main water course passes through the borderline of two villages and the proposed outlet belongs to revenue estate of village Balak, thus, the shareholders have no cordial relations with each other, therefore, they objected to the same. This fact was indicated in the orders dated 21.08.1987 (Annexure P-1) and 28.09.1989 (Annexure P-2) and thus, urged this Court for setting aside the orders under challenge.

Per contra, Mr. Vijay Pal, learned counsel appearing on behalf of respondent No.5 submitted that the orders of the Superintending Canal Officer and Chief Canal Officer are perfectly legal and justified. He drew the attention of this Court to the site plan (Annexure P-6) to show that outlet bearing No.RD22956-L is far from the land in question *vis-a-vis* outlet 25240-L. Keeping in view the aforementioned aspect, the order has been passed in his favour and no prejudice has been caused to the petitioners. It is just settlement of ego, nothing beyond and thus, urged this Court for upholding the orders under challenge.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr.Manoj Sharma, for, principles of *res judicata* do not apply in these proceedings. There is considerable gap of time between 1987 and 1989 *vis-a-vis* application submitted in the year 2007.

On perusal of site plan (Annexure P-6) old outlet bearing No.RD 22956-L is situated at far place than the one which had been proposed to be shifted, i.e, 25240-L as land of the petitioner is in pink colour *vis-a-vis* private respondent in yellow colour. It is only three acres of land, therefore, shifting of the outlet would not affect irrigation of the petitioners. All these factors have been taken into consideration by the authorities below.

In my view, the impugned orders are based upon the preponderance of evidence, much less the spot inspection and record, therefore, the same cannot be said to be vitiated in law and do not call for any interference.

Accordingly, the writ petition stands dismissed.

(AMIT RAWAL)  
JUDGE

May 17, 2017  
savita