

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

CWP No.8827 of 2014

Date of decision:06.04.2017

Parminder Singh

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr.Ashok Verma, Advocate
for the petitioner.

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

Mr. Dinesh Maurya, Advocate, for
Ms. Sonia G.Singh, Advocate
for respondent No.4.

AMIT RAWAL J.

The petitioner is aggrieved of the impugned orders dated 17.07.2012 (Annexure P-1) and 05.12.2013 (Annexure P-2) passed by the Divisional Canal Officer and Superintending Canal Officer, whereby, application moved by private respondent No.4 seeking transfer of area irrigated from Mogha Burji No.68897-R to 71228-S, has been allowed.

Mr. Ashok Verma, learned counsel appearing on behalf of the petitioner submits that respondent No.3-Divisional Canal Officer, vide order dated 17.07.2012 had not complied with the principles of natural justice, as well as the mandatory provisions of the Northern India Canal and Drainage Act, 1873 (hereinafter referred to as "1873 Act") and Rules framed there under qua calling upon the petitioner to put forth the case being share holder to the transferred outlet. Having aggrieved of the aforementioned order, the

appeal preferred also met with the same fate. The effecting of *Mustri Munadi* (beat of drum) in the village cannot be considered as legal and valid service at the first instance without giving any personal service upon the concerned person. The orders under challenge are also not liable to be sustained in the eyes of law on the premise that the alleged spot inspection was not made in the presence of the petitioner, much less that of Zileadar nor any statement of the concerned had been recorded. The recording of statements of other persons is inconsequential as they are not interested persons. The Divisional Canal Officer had failed to inspect the spot and could not have delegated the powers to Zileadar. The size of Mogha Burji No.71228 was kept according to number of share holders and if 31 kanals of land including the area already provided/attached with aforementioned outlet, would definitely reduce the supply of water and thus, urges this Court for setting aside the orders under challenge.

Per contra, Mr.Dinesh Maurya, Advocate, for Ms. Sonia G.Singh, learned counsel appearing on behalf of respondent No.4 submits that the orders under challenge are perfectly legal and justified, much less no prejudice has been caused to the petitioner as the land of private respondent is at the farther end than that of petitioner and thus, urges this Court for dismissal of the writ petition.

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. Ashok Verma, for, concededly, land of the petitioner is before the land of private respondent. No prejudice is caused to the petitioner with regard to lesser supply of water. *Mustri Munadi* was effected by the Divisional Canal

Officer but there was no representation. It is an attempt to tire out the respondents, much less settlement of ego. Transferring of 4 acres of land from Mogha Burji No.68897 to 71228, would not affect the water supply to the petitioner. The spot inspection of Zileadar is a testimony to the aforementioned fact. The size of outlet has been kept according to the area with regard to more or less. The petitioner has failed to appear before the Divisional Canal Officer despite having been put notice to all the villagers regarding concerned share holding.

In view of the aforementioned, no ground is made out for interference in the impugned orders.

Accordingly, the writ petition stands dismissed.

(AMIT RAWAL)
JUDGE

April 06, 2017

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No