

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

CWP No.28208 of 2017
Date of Decision: 12.12.2017

Nand Lal Chhabra

. . . . Petitioner

Vs.

State of Haryana and others

. . . .Respondents

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

Present: Mr.B.B.S. Randhawa, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J.

The petitioner has challenged the order dated 29.7.2015 passed by the Divisional Canal Officer, Hisar Water Services Division, Hisar by which an application filed by respondent No.5 for transfer of 2.00/2.00 acres area from outlet RD. 32800-R Sarsana Minor to outlet RD. 31000-R Sarsana Minor has been allowed on consolidation basis holding that some area of the applicant is already in the proposed source and the transfer is on the consolidation basis. It was also observed that the area of the applicant is located very near to the proposed source and is a small area which would not effect the existing area of the proposed source in any way and no link water-course is required to this area, order dated 14.12.2016 passed by the Superintending Canal Officer, Bhakra Water Services, Circle No.1, Hisar by which the order of the DCO, Hisar has been upheld and the order dated 7.6.2017 passed by the Chief Canal Officer, BWS Unit, Haryana Irrigation and W.R. Department, Panchkula by which the appeal filed by the petitioner was dismissed with the following observations: -

“Arguments of appellants as well as of the respondents were heard properly. The decision of Superintending Canal Officer, Bhakra Water Services, Circle No.1, Hissar dated 14.12.2016 and other relevant record has been perused. It has been observed that the area in question has been purchased by the respondent in the name of Partibha Devi W/O Kuldeep. That the major portion of the area of the respondent already exists in the chak of outlet at RD 31000-R Sirsana Minor and the demand of the respondent party regarding transfer his 2/2 acres area from outlet at RD 32800-R to RD 31000-R Sirsana Minor has been rightly accepted by the Courts below. That the objection of the petitioner against transfer of 2/2 acres area from outlet at RD 32800-R to RD 31000-R Sirsana Minor regarding dispute over the title of the land is concerned, the mutation of the land in question stands sanctioned in favour of the respondent as per the civil record. It is settled law that in case the land is sold/transferred in favour of the person, the canal supply shall be presumed to have

been transferred. In the present case the land in question has been purchased by the respondent party and the same is being cultivated by them. So, the objection of the appellant against transfer of 2/2 acres area from outlet at RD 32800-R to RD 31000-R Sirsana Minor is baseless. Hence, the appeal of the appellant is hereby set aside by upholding the decision of Superintending Canal Officer, BWS Circle-I, Hissar. The decision be conveyed to all concerned accordingly.”

Although, learned counsel for the petitioner has vehemently argued that the inclusion of the area by transfer would adversely effect the irrigation of the petitioner but in view of the concurrent finding of fact recorded and the reasons assigned much less the area being too small, I do not find any merit in the present petition and the same is hereby dismissed.

12.12.2017

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No