

CWP No.4717 of 2017
Date of decision:08.03.2017

The State of Haryana and others ... Respondents

Present:- Mr. Vijay Singh Kajla, Advocate
for the petitioner.

The contention of Mr. Vijay Singh Kajla, Advocate for the petitioner is that respondent No.5 had moved an application for transfer of the land to another outlet which was allowed by the Divisional Canal Officer, vide order dated 06.06.2014 (Annexure P-1). However, the appeal preferred by the petitioner before the Superintendent Canal Officer, was dismissed, vide order dated 16.07.2015 (Annexure P-3). Against the aforementioned order, the appeal filed by the petitioner was also dismissed in a most sketchy and mechanical manner and in this regard, he has drawn the attention of this Court to the finding of the Chief Canal Officer which reads as under:-

“Revenue missal, connected record, including khaka plan have been perused. Argument of both the parties have been considered at length. It is observed that the lined watercourse

is available for the area in question from the proposed source while on the other hand there is unlined length of link watercourse from the existing source. Full supply level of the existing source is 692.89 while it is 693.65 of the proposed one which can provide sufficient better command for the area in question.

Keeping in view, the above circumstances and being the appeal not based on the genuine and solid grounds is hereby rejected and the decision of Superintending Canal Officer BWS Circle Hisar dated 16.7.2015 is upheld.

Decision be conveyed to all concerned under the rules.”

I have come across many orders of the Chief Canal Officer which are basically cut and paste. In all cases, stereo type lines are being mentioned. There is no application of mind, much less reference of the orders and documents.

Thus, I do not deem it appropriate to issue notice of motion to the respondents instead remand the matter back by setting aside the impugned order in order to defray the costs of litigation and wastage of time when the order apparently is not only preposterous, much less repugnant.

The order under challenge, in my view, is not sustainable and is hereby set aside and the matter is remitted back to the Chief Canal Officer to decide the matter afresh after affording opportunity of hearing to the petitioner and contesting respondents in accordance with law. He is also directed to be more careful in future, failing which costs shall be deemed to

be imposed for passing such mechanical and sketchy orders, much less not adhering to the powers entrusted under the Act.

Accordingly, the writ petition stands disposed of.

The petitioner is directed to appear before the Chief Canal Officer on 31.03.2017.

(AMIT RAWAL)
JUDGE

March 08, 2017
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No