

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

**L.P.A. No.1596 of 2015 (O&M)
Decided on : 07.07.2017**

Jagshir Singh and another

... Appellants

Versus

Superintending Canal Officer, Sirhind Canal Circle, Ludhiana and
others

... Respondents

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI**

Present : Mr. P.S.Sidhu, Advocate,
for the appellants.

Mr. Manoj Bajaj, Addl. AG, Punjab,
for respondents No.1 and 2.

Mr. Baltej Singh Sidhu, Advocate,
for respondents No.3 to 7.

MAHESH GROVER, J.

This appeal is directed against the judgment of the learned Single Judge dated 24.9.2015 upholding the orders of the Canal authorities in favour of the present respondents permitting shifting of irrigation qua 16.67 acres land to Lift Pump Outlet No.53331-R Upper Rupana considering it to be in the interest of irrigation.

Learned counsel for the appellant contends that on an prior occasion, an application was filed by the same very respondents for shifting of about 30 acres of land from Lift Pump Outlet No.232700-L to this very Outlet, i.e., 53331-R Upper Rupana which was declined on

2.11.2010. An appeal preferred against those orders was also declined on 27.6.2011. Soon thereafter, in June, 2011, another application was moved qua transfer of 16.67 acres of land seeking shifting from Lift Pump Outlet No.232700-L to Lift Pump Outlet No.53331-R Upper Rupana which has been accepted and finally got approval of the learned Single Judge as well which is totally contrary to the scheme of irrigation as also interest.

It is contended that there would be no occasion for the canal authorities to go into the matter afresh having once determined the issue. Besides while referring to the site plan, learned counsel for the appellant contends that the area which has now been transferred for irrigation to Lift Pump Outlet No.53331-R is scattered in 3 parts and it would not serve purpose, rather it would jeopardize the interest of the irrigation of the appellants.

As against this, learned counsel for the respondents justifies shifting on the ground that earlier when the prayer for 13 acres of the land was made, some of the land was on higher level thereby making shifting unfeasible. Subsequently, the appellants at their own costs levelled the land and have now sought shifting of 16.67 acres of their land. It is contended that the entire area is affected by irrigation problem where resorting to irrigation through Lift Pump takes a huge toll on their finances making it unviable and uneconomical. It is contended that for the purpose, the farmers have to use heavy tractors, the working of which makes irrigation of agriculture activity expensive. It is contended that shifting of this area to Lift Pump Outlet

No.53331-R Upper Rupana is in the interest of irrigation and during the course of hearing, the canal authorities submitted an affidavit of Shri Nirmal Singh Brar, Divisional Canal Officer categorically stating that there will be no loss to irrigation to the land of the petitioners (now the appellants herein). For the purpose of reference, para. 1 of the affidavit is extracted below : -

“1. That there will be no loss to the irrigation of the land of the petitioners if the area of the private respondent is added to the outlet No.RD-53331-R Upper Rupana Distributory, then the discharge of the outlet will be increased in proportionate to the area added.”

Apart from this, it is contended that all other farmers and share holders of the area have filed affidavits in support of the respondents and it is only two agriculturists including the appellants who are actually opposing the transfer.

We have heard the learned counsel for the appellants and have perused the impugned order which notices in *extenso* the reasoning adopted by the Divisional Canal Officer as also the subsequent authorities holding that it would be in the interest if irrigation if the area of 16.67 acres is shifted to Pump Lift Outlet No.53331-R Upper Rupana. Besides that a finding of fact has been recorded that most of the area has been levelled by the appellants, thereby making such a transfer feasible.

After hearing the parties, we are also of the opinion that interference in such like matters should be restricted to illegality or to orders offering glaring perversity. The interest of irrigation is best known to the canal authorities who have access to the site where such

proposals for shifting or alternative arrangement of irrigation are made.

We would, thus, decline inference for the aforesaid reason and prefer to lean in favour of the opinion expressed by the canal authorities since no perversity has been shown. Even a perusal of the site plan and related material on record indicates justification of such exercise. No ground for interference is made out.

Dismissed.

(MAHESH GROVER)
JUDGE

(RAJ SHEKHAR ATTRI)
JUDGE

July 7, 2017
Paritosh Kumar

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No