

**LPA no. 1528 of 2017 (O&M)      1**

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

**LPA no. 1528 of 2017 (O&M)**

**Date of Decision : 26.02.2019**

Bhola Singh and others

....Appellant(s)

Versus

Superintending Canal Officer, IB Circle Patiala and others

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER  
HON'BLE MR JUSTICE LALIT BATRA**

**Present : Mr.Vikram Singh, Advocate for the petitioner(s)**

**Mr. P.S.Brar, Advocate for respondents**

**MAHESH GROVER, J.(ORAL)**

**CM No. 3268-LPA-2017**

After hearing learned counsel for the applicant and going through the contents of the application, delay of 65 days in filing the instant appeal is hereby condoned. CM stands allowed.

**Main case**

In writ proceedings, an order was passed on 4.8.2015 which reads as under:-

“After hearing learned counsel for the petitioners, it is evident that order dated 21.9.2011 (P-2) passed by the Divisional Officer Canal Mansa Division admitting the change of outlet from two sources to a common source in favour of the petitioner was correct,

and the order dated 28.5.2012 (P-1) passed by the Appellate Court is liable to be quashed, however, in the light of the fact that the impugned order (P1) had been passed in favour of around 30 share holders including respondent Nos. 3 to 5, learned counsel for the petitioner prays for time to implead the remaining respondents.”

Concededly an application under Order 1 Rule 10 CPC was filed, which remained undecided and the learned Single Judge disposed of the writ petition. The grievance as set out before us is that in the absence of any decision on the application under Order 1 Rule 10 CPC, the appellant has been deprived of hearing before the writ Court.

After hearing learned counsel for the parties, we are of the opinion that grievance of the appellant is justified. Since there were more than 30 share holders, the writ Court at one point of time noted the necessity of hearing the affected persons and therefore, once an application under Order 1 Rule 10 CPC was filed, it was imperative for the proper adjudication of the matter to hear the affected persons to the dispute. We would, therefore, set aside the impugned order and remit the matter back to the learned Single Judge for consideration afresh.

Appeal stands disposed of.

**(Mahesh Grover)**  
**Judge**

26.02.2019  
rekha

**(Lalit Batra)**  
**Judge**

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No