

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

LPA No.1519 of 2017(O&M)

Date of Decision:-13.02.2020

Jai Narayan & Ors.

.....Appellants.

Versus

**The Chief Canal Officer Irrigation Department Haryana Sinchai
Bhawan & Ors.**

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present:- Mr. Kamal Sharma, Advocate for the Appellants.

Mr. Ravi Dutt Sharma, Deputy Advocate, Haryana
for official respondent Nos.1 to 3/State.

Mr. D.S. Malik, Advocate for Contesting Respondent No.4-
Satyawar.

JASWANT SINGH, J.

Three Appellants have filed the instant intra-court appeal under Clause X of the Letters Patent, whereby they have sought quashing of the impugned order dated 04.07.2017 passed by Ld. Single Judge, who has dismissed their writ petition by upholding the proposal of shifting of water outlet on the ground of better irrigation.

Learned Counsel for the appellants has argued that although the Learned Single Judge has observed in his order that shifting of water outlet to a new area would adversely affect *wari* of appellants, still, he has

that the observations of the Ld. Single Judge are contrary to and in absence of any provision of Canal & Drainage Act, which permits the authorities to change the outlet for increasing the flow of water in term of cusecs for a small portion of land. It is further argued that only for benefit of private respondent no 4, the *wari* time has been changed, which has adversely affected the appellants capacity to irrigate their fields. Thus, prayer has been made for quashing of the impugned order dated 04.07.2017.

On the other hand, learned Counsel for the State and respondent no 4 have supported the findings returned by the learned Single Bench and has submitted that with the present arrangement, the overall capacity to cultivate the lands has drastically increased and therefore, the findings returned by the Single Judge, are liable to be upheld.

We have heard learned Counsel for the parties at length and have scrutinized the paper book with their able assistance. However, we are of the opinion that the instant appeal is without any merit.

Concededly, respondent no 4 filed an application for shifting of outlet upon which a scheme was prepared by Divisional Canal Officer, Gohana and this scheme was not acceptable to present appellant and therefore objections were filed by them. Those objections were rejected by the Divisional Canal Officer by observing that the irrigation percentage of 12/10 acres area is very poor through the existing source (being only 25%) and by shifting the water outlet, the irrigation percentage would increase. However, the Divisional Canal Officer had directed that the cost of adjustment of both outlets and water course will be borne by present respondent no 4.

Although the said order was set aside in appeal by

Superintending Canal Officer, Rohtak, but order of Superintending Canal officer was set at naught by Chief Canal Officer and thereby restoring the order passed by Division Canal Officer, Gohana. It was held by Chief Canal Officer that the land of private respondent no 4 from the existing outlet is nearly 23 Killas away and due to numerous turns, only 25% canal irrigation is being received to his land with an overall average irrigation capacity of 86%. Further, it was observed that in case of usage from proposed water outlet, it would be only be 3 ½ killas away from respondent no 4’s land, with maximum irrigation to the land of respondent no 4 and a higher overall irrigation capacity of 109%.

In view of the above, when overall irrigation capacity of the fields is increased, with maximum utilization of water, we see no reason for interfering in the substantial relief granted to all the stake holders especially when respondent no 4 has been burdened with costs of adjustment of outlets alongwith water course. Merely because *wari* of the appellants might get affected, overall benefit of the surrounding fields cannot be negated because it is not their case that with shifting of water course, irrigation capacity of their land would decrease.

In view of the above, finding no merit, instant appeal is hereby **dismissed.**

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

February 13, 2020
Vinay

Whether speaking/reasoned	Yes
Whether Reportable	Yes