

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

Sr. No.123

**Civil Writ Petition No.12161 of 2021 (O&M)
Date of Decision : December 20, 2021**

Ram Kumar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. R.K. Bagga, Advocate, for the petitioners.

SUDHIR MITTAL, J. (ORAL)

The petitioners are aggrieved because the Superintending Canal Officer has reversed the orders passed by the Divisional Canal Officer. Vide order dated 14.02.2020, the Divisional Canal Officer had rejected the application filed by the private respondents for transfer of the land of the petitioners to another outlet.

Learned counsel for the petitioners has raised two fold argument (i) the remedy adopted by the private respondents was not an appropriate remedy and (ii) the finding of the Superintending Canal Officer that the land of the petitioners is not on the reverse slope is contrary to evidence.

In support of the argument that the remedy adopted by the private respondents was not the appropriate remedy, it has been submitted that their case was that their land was not receiving adequate irrigation on account of dismantling of a watercourse. It has been submitted that they

should have applied for restoration of the watercourse rather than asking for the transfer of the land of the petitioners.

The argument is misconceived because for getting the requisite relief, the private respondents could have either applied for restoration of the demolished watercourse or they could have applied for transfer of the land of the petitioners. In the instant case, they have applied for transfer and the counsel for the petitioners has not submitted that the remedy availed of was not a remedy available in law at all. Thus, the argument is rejected.

Regarding the submission that the finding of the Superintending Canal Officer that the land of the petitioners is not on the reverse slope, the evidence sought to be relied upon is the finding of the Executive Engineer. The finding of the Executive Engineer is not evidence. No other document or record has been shown to establish the fact that the finding of the Superintending Canal Officer is perverse. Thus, this argument is also liable to be rejected.

In view of the above, the writ petition has no merit and is dismissed.

December 20, 2021

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No