

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

**CWP No.15036 of 2021
Date of Decision:09.08.2021**

Jaswinder Singh

....Petitioner

VS

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Gursimarn Singh Madaan, Advocate
for the petitioner

SUDHIR MITTAL, J. (Oral)

The petitioner is aggrieved because application of the private respondents for transfer of some land owned by them to outlet No.27835/Left, Bhadaur Rajwaha, District Barnala has been allowed. Appeal filed by him has also been dismissed.

The private respondents sought transfer of area measuring 24.15 acres to the water course flowing from outlet No.27835/Left. A perusal of the application shows that the reason mentioned therein for such transfer was that the existing water course is very close to the land and is level and can be conveniently irrigated from the said water course. As stated hereinabove, the application has been allowed and appeal has been dismissed.

Learned counsel for the petitioner has argued that procedure prescribed under Section 30-A of the Northern India Canal and Drainage Act, 1873 was required to be followed in this case in addition to the procedure prescribed under section 20 of the Act. The same having not been done, the orders passed are liable to be set aside. In support of his arguments, he places reliance upon '*Kundan*

Lal vs. The Divisional Canal Officer and others', 1968 PLJ 324 and '*Nihala*

Singh @ Nihala and others vs. The Superintending Canal Officer, Western Jamna Canal, West Circle, Rohtak and others ', 1982 LLR 647.

The contention is misconceived. Section 30-A applies only when the matter is regarding construction, alteration, extension and alignment of any water course and re-alignment of any existing water course. This is not the position in this case. The private respondents have only asked for addition of their land to the water course already flowing from outlet No.27835/Left. The said provision would also apply in a case of re-allotment of area served by one water course to another water course. This is also not the position as the application filed by the private respondents does not state so. Even, learned counsel for the petitioner has not argued that the land was earlier irrigated through some water course.

In Kundan Lal (supra), this Court has held that in exercise of powers conferred by the Northern India Canal and Drainage Act, 1873, the authorities thereunder are also entitled to close, shift or open new outlets. That is not the case here and thus, the judgment is not applicable. In Nihala Singh (supra), this Court was dealing with a situation where the argument raised was that Section 20 of the Act was applicable and not Section 30-A of the Act. Thus, reverse proposition was argued and, thus, this judgment is also distinguishable.

For the aforementioned reasons, I do not find any merit in this petition and same is accordingly dismissed.

**(SUDHIR MITTAL)
JUDGE**

09.08.2021
Poonam Negi

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No