

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 18322 of 2021

Date of Decision: 21.09.2021

Ranjeet Singh and others

....Petitioner

VS

Superintending Canal Officer and others

....Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Vijay Sharma , Advocate
for the petitioner

SUDHIR MITTAL, J. (Oral)

The private respondents No.3 to 10 had filed an application for shifting of their land to another outlet. The application has been allowed and appeal has been dismissed.

A large chunk of land measuring 871.98 acres was being irrigated through outlet No. 13850-L. By virtue of the impugned orders, land measuring 536.45 acres has been transferred from the said outlet and new outlet 16350-L has been created.

Learned counsel for the petitioner has submitted with reference to the site plan Annexure P-7 that the new outlet 16350-L has been created in the *abadi* of the village. This would result in 'Salab' in the houses of the residents. The land to be irrigated lies towards the downstream and it would be more appropriate if the outlet is created outside the *abadi*. This aspect was squarely raised before the Superintending Canal Officer but he has not considered the same.

Mr. Surinder Garg, Advocate has appeared on behalf of respondents

No. 3 to 10 on caveat and has submitted that the argument is misconceived. This

paragraph of the order. He has held that a pipe at three feet depth has been laid for the purposes of transporting water from the outlet to the 'Khals'. Depth of three feet is in accordance with the laid down technical standards. That being the case, the argument deserves to be rejected.

The contention raised by learned counsel for respondents No. 3 to 10 – Caveators possesses merit as the same is corroborated by the impugned order dated 12.08.2021 passed by the Superintending Canal Officer. It is, accordingly, accepted.

It has been next contended that the petitioners did not get the proper opportunity to argue before the Divisional Canal Officer because the said official passed an order on the date a request for adjournment had been made on account of passing of young member of the Bar. For this reason also the impugned order deserves to be set aside.

Assuming that on account of absence of counsel, the petitioners were at some disadvantage, the said disadvantage has been overcome because in appeal the Superintending Canal Officer has granted adequate opportunity of hearing. Thus, this argument also deserves to be rejected.

The next argument is that the finding that branch from outlet 13850-L going towards the land of the private respondents passes through *abadi* is factually incorrect. Thus, the writ petition deserves to be allowed and the impugned orders deserve to be set aside.

The aforesaid argument is neither here nor there. Assuming that the branch from the outlet 13850-L going towards the land of the private respondents does not pass through the *abadi*, it would make no difference so far as the case of the petitioners is concerned. They have to show prejudice caused to them by the transfer. The argument does not establish any prejudice to their rights and, thus, it

Finally, it has been argued that the transfer of area would reduce supply of water to the remaining land. Reference in this regard has been made to the grounds of appeal filed before the Superintending Canal Officer, on the basis of which it has been submitted that the Superintending Canal Officer has failed to take this aspect into consideration.

A perusal of the grounds of appeal shows that this point has been raised in the penultimate paragraph. All other points including the ground of absence of counsel before the Divisional Canal Officer have been raised prior to it. This shows the importance attached by the petitioners to the said ground. Had it been a major cause of concern the same would have been raised in the first instance. During the course of arguments, this argument has been raised last of all. It is thus, evident that the argument is without any factual basis. Moreover, there is no evidence on record to support the argument.

For the aforementioned reasons, the writ petition is dismissed being without merit.

(SUDHIR MITTAL)
JUDGE

21.09.2021
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Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No