

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

Date of Decision: August 05, 2022

CWP No.10926 of 2022 (O&M)

Rajinder Singh and others

..Petitioners

Versus

**Superintending Canal Officer, Patiala Circle, Irrigation Branch,
Patiala and others**

...Respondents

2.

CWP No.11110 of 2022

Bhupinder Singh and others

..Petitioners

Versus

**Superintending Canal Officer, Patiala Circle, Irrigation Branch,
Patiala and others**

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

**Present: Mr. Vijay Sharma, Advocate,
for the petitioners (in both petitions).**

**Mr. Arun Kumar Kaundal, DAG, Punjab,
for respondents No.1 & 2.**

**Mr. Ankit Midha, Advocate,
for respondents No.3 to 5 (in both petitions).**

SUDHIR MITTAL, J.

CM-11583-CWP-2022 in CWP-10926-2022

This application has been filed for placing on record

Annexures P-13 to P-15.

For the reasons stated therein, the same is allowed and Annexures aforementioned are taken on record.

CWP Nos.10926 & 11110 of 2022

The issue involved in both these writ petitions is identical, however, for ease of reference, the facts are being extracted from CWP No.10926 of 2022.

2. An application was filed by respondents No.3 to 5 for transfer of 14 acres of their land from outlet No.89287/R Rajwaha Sandoha Branch to outlet No.95895/R of the same branch. The Divisional Canal Officer has allowed the application. Appeal filed by the petitioners has been dismissed. Their application for rehearing under Rule 99 of the Northern India Canal and Drainage Rules, 1878 (hereinafter referred to as the Rules) has also been dismissed.

3. Learned counsel for the petitioners has argued that service was defective as no sketch plan was annexed with the notice. Section 30-A(2) of the Northern India Canal and Drainage Act, 1873 (hereinafter referred to as the Act) stipulates that a sketch plan must be part of every scheme prepared under the said provision. Moreover, service was not effected in accordance with Rule 79 of the Rules. Munadi was not done by the Village Chowkidar and Lambardar as is evident from affidavits executed by the said persons copies of which are annexed as Annexures P-13 & P-14.

4. Record was summoned and has been seen by me with assistance of learned counsel for the parties. The notice issued records that sketch plan is annexed. Sketch plan is also on the record and thus,

the argument based upon Section 30-A(2) has to be rejected. The record also shows that munadi proceedings were signed by the Lambardar and the Village Chowkidar. Accordingly, affidavits executed by the said persons are obviously incorrect and false. Rule 79 of the Rules pertains to summons and notices & publication of notices, proclamation etc. Rule 79-D pertains to personal services and is not attracted in this case. In matters such as the present one, notice has to be served through proclamation which is governed by Rule 79-C. The said Rule prescribes that proclamation shall be made at convenient places in the locality or near the residence of the persons affected by beat of drum or any other customary method. It can also be pasted at the office of the officer issuing the proclamation or by informing the public that the notice shall be available to the public at a place accessible to it. This Rule has been complied with as is evident from the record and the petitioners cannot derive any benefit from the argument.

5. It has next been contended that outlet No.95895/R lies in the revenue estate of the adjoining village. The Panchayat of the village within the revenue estate of which outlet No.89287/R exists has resolved against transfer of land and the canal authorities were not justified in ignoring the same. The transfer of land has resulted in a law-and-order situation and FIR has been registered. This fact has also been ignored by the canal authorities.

6. No statutory provision or Government instruction or law has been brought to my notice which bars transfer of land to an outlet existing in the revenue estate of a neighbouring village. Thus, the argument is

misplaced. Creation of law-and-order situation is not a relevant consideration while examining an application for transfer of land from one outlet to another and thus, the argument based upon this submission is also rejected.

7. The next argument is based upon the command statement, copy of which is on record as Annexure P-7. It has been submitted that available water level at outlet No.95895/R at the head of the watercourse is less than the required water level by 1.81. The difference at outlet No.89287/R is only 0.54. This shows that the revenue estate of the village to which the land is being transferred is getting less water than that required and addition of more land will create a further shortage. The canal authorities have ignored this fact. This argument is also misconceived. If the available water level is less than the required water level, the pressure with which the water is released from the outlet would be reduced. It does not mean that the quantity of water available is less.

8. Finally, it has been argued that the Superintending Canal Officer has not taken into consideration all points raised before him and thus, the order deserves to be set aside and matter remanded for a fresh decision. It has also been submitted that existence of the land of the private respondents closer to outlet No.95895/R was not a relevant consideration. The order of the Superintending Canal Officer shows that the same is a speaking order. All relevant facts have been taken into consideration while deciding the appeal of the petitioners. Appellate proceedings in canal matters are not similar to proceedings in civil cases where the law requires every argument raised to be dealt with. In canal

matters, so long as all facts have been taken into consideration and a reasonable order has been passed, no interference is called for.

9. The writ petition has no merit and is dismissed.

August 05, 2022
'Ankur Goyal'

(SUDHIR MITTAL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>