

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

Sr. No.127

**Civil Writ Petition No.20302 of 2022
Date of Decision : September 08, 2022**

Jarnail Singh and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Inderjeet Singh, Advocate and
Mr. Jasdeep Singh Walia, Advocate,
for the petitioner.

SUDHIR MITTAL, J. (ORAL)

The petitioners had applied for transfer of some land owned by them from one outlet to another. The Divisional Canal Officer allowed the application but in appeal filed by the private respondents, the said order has been set aside. Thus, the present writ petition has been filed.

A perusal of the Appellate order shows that working head of water at the outlet to which the land is sought to be transferred is much less than the working head available at the outlet irrigating the land at present. It has also been found that it is the duty of the co-sharers getting irrigation from an outlet to maintain watercourses and if a particular watercourse is not in good condition it is the fault of the co-sharers themselves. They can improve the condition thereof.

Learned counsel for the petitioners refers to site plan (Annexure P-2) to submit that the land sought to be transferred to another outlet is receiving irrigation from an outlet which is at a distance of 1.3

kilometers. Even though the working head at the said outlet is high, the distance as well as the poor condition of the watercourse is affecting the flow of water resulting in poor irrigation. The outlet to which the land is sought to be transferred is very close and therefore, even if the head of water is low, it would not adversely affect irrigation of the other co-sharers. Moreover, *chak* being irrigated through the outlet to which the land is sought to be transferred is smaller than the *chak* being irrigated through the outlet from which the transfer is sought.

In view of the reasoning given by the Appellate Authority, the submissions made by learned counsel for the petitioners cannot be accepted. If the flow of water is being affected due to the poor condition of the watercourse, the fault lies with the petitioners themselves. They can improve the condition of the watercourse resulting in improvement of the flow. Distance then would not make much of a difference as the working head at the said outlet is much higher. The argument that *chak* of outlet to which the land is sought to be transferred is much smaller cannot be accepted as there is nothing on record to indicate so.

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

September 08, 2022

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No