

CM-9939-CWP-2023 in/and CWP-9689-2023
CM-9929-CWP-2023 in/and CWP-9263-2023 1 2023:PHHC:081386

210 **IN THE HIGH COURT OF PUNJAB & HARYANA**
AT CHANDIGARH

1. CM-9939-CWP-2023 in/and CWP-9689-2023(O&M)

Gursewak Singh and othersPetitioners

Versus

The Superintending Canal Officer and othersRespondents

2. **CM-9929-CWP-2023 in/and
CWP-9263-2023(O&M)**

Ajit Kumar Saharan and othersPetitioners

Versus

State of Punjab and others Respondents

Date of Decision: 02.06.2023

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sandeep Khunger, Advocate and
Mr. Saksham Khunger, Advocate for the
petitioners in CWP-9689-2023.

Mr. Rai Singh Chauhan, Advocate;
Mr. Rohit Sapehiya, Advocate and
Mr. Kripal Singh Adhikari, Advocate for the
petitioners in CWP-9263-2023.

Mr. Ferry Sofat, Addl. A.G., Punjab for
respondents No.1 and 2 in CWP-9689-2023 and for
respondents No. 1 to 4 in CWP-9263-2023.

Mr. Ashish Aggarwal, Sr. Advocate with
Mr. Judgepreet Singh Warring, Advocate and
Mr. Karan Singla, Advocate for the
applicants-respondent Nos. 3 to 40 in CWP-9689-2023.

Mr. Judgepreet Singh Warring, Advocate for the
applicant-respondent No. 5 in CWP-9263-2023.

RAJEEV PUROHIT
2023.06.03 12:59
I attest to the accuracy and
integrity of this document

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VIKAS BAHL, J.(Oral)

CM-9939-CWP-2023 in CWP-9689-2023 and
CM-9929-CWP-2023 in CWP-9263-2023

These are two applications filed under Section 151 CPC with a prayer to prepone the above said cases from 10.10.2023 to any shorter date.

Learned counsel for the petitioners/non-applicants as well as learned State counsel have submitted that they have no objection in case the date of hearing in the abovesaid cases is preponed from 10.10.2023 to today.

In view of the above, the date of hearing in the abovesaid cases is preponed from 10.10.2023 to today and the abovesaid cases are taken on board.

CWP-9689-2023 and CWP-9263-2023

1. By this common order, writ petitions bearing Nos. CWP-9689-2023 and CWP-9263-2023 shall disposed of.
2. Challenge in both the writ petitions is for quashing the order dated 07.03.2023 passed by the respondent No. 1-Superintending Canal Officer, Ferozepur Canal Circle, Canal Colony, Ferozepur whereby respondent No. 1 has ordered for opening of a new Outlet at 4990/R, Bhangala Minor.
- 3 On 05.5.2023, this Court was pleased to pass the following order in CWP-9689-2023:-

“Inter alia, contends that respondent No.1 has ordered irrigation from the opening of new Outlet No.4990/R Bhangala Minor without framing, preparing any scheme, which is mandatorily required as per the provision of Section 30-B of the Northern India Canal & Drainage Act, 1873 read with Rule 5 (2)

of the Northern India Canal & Drainage Rules. It is further contended that vide order dated 04.06.2009 (Annexure P-1), the Divisional Canal Officer, Abohar Canal Division, CC Abohar had ordered the closing of Outlet No.5000/TR and the area had been ordered to be shifted to Outlet No.582315R Abohar Branch and the same was upheld by the Superintending Canal Officer, vide order dated on 30.06.2016 and even a civil writ petition challenging the same was not pressed before a Coordinate Bench of this Court and thus, the passing of order dated 07.03.2023 is in effect a review of the order dated 30.06.2016. It is submitted that Superintending Canal Officer, Ferozepur Canal Circle, Ferozepur, by passing the impugned order dated 07.03.2023 has set up a new case/plea which was neither raised by the petitioners nor by the private respondents and has opened a new Outlet No.4990/R for a temporary period.

Notice of motion.

Mr. Judgepreet Singh Warring, Advocate, appears and accepts notice on behalf of respondents No.3, 33, 35 & 36 and seeks a short adjournment to get instructions in the matter.

Adjourned to 09.05.2023.

To be taken up at 1.45 PM.

Operation of the impugned order dated 07.03.2023 (Annexure P-8) shall remain stayed till the next date of hearing.

May 05, 2023

**(VIKAS BAHL)
JUDGE”**

4. During the course of arguments, a consensus has been arrived at between the learned counsel for the petitioners as well as learned Senior counsel for the private respondents Nos. 3 to 40 in CWP-9689-2023 and respondent No. 5 in CWP-9263-2023 to the effect that the order dated 07.03.2023 be set aside with liberty to the private respondents to move an

appropriate application before the competent authority.

5. Keeping in view the above said facts and circumstances, the present writ petitions are partly allowed and the order dated 07.03.2023 passed by the Superintending Canal Officer, Ferozepur Canal Circle, Canal Colony, Ferozepur is set aside. Liberty is granted to the private respondents to move an appropriate application before the competent authority and in case any such application is moved, then, the same would be decided in accordance with law.

6. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

02.06.2023
Rajeev (rvs)

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No