

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-1496-2023 (O&M)

Date of reserve: 08.11.2023

Date of Pronouncement: 30.11.2023.

Mahabir @ Mahaveer Singh since deceased through LRs
....Appellants.

Versus

Superintending Canal Officer and others **...Respondents.**

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

.....

Argued by: Mr. Peeush Gagneja, Advocate for the appellants.

Mr. R.S. Pandher, Sr. DAG, Punjab.

SUKHVINDER KAUR, J.

This Intra Court Appeal has been preferred against the judgment dated 19.09.2023 passed by a learned Single Judge of this Court, whereby CWP-24300-2017 filed by the appellant has been dismissed.

2. The brief facts of the case are that respondent No.3, Ved Parkash filed an application before respondent No.2-Divisional Canal Officer, Abohar for transfer of 15 acres of his land from the existing outlet alleging that his land was not being properly irrigated from the existing outlet No.88625-T.R. Ramsara Minor Chak. On the said application respondent No.2 passed order dated 24.04.2017 (Annexure P-1) through which 14.49 acres of the land of respondent No.3 was transferred from Outlet No.88625-T.R. Ramsara Minor Chak to Outlet No.196900 T.R.

Lambi Rajabaha Chak. Against the said order, the appellant preferred an appeal before respondent No.1-Superintending Canal Officer, Ferozepur, which was dismissed through order dated 01.09.2017 (Annexure P-3). Being aggrieved of both the abovesaid orders, the appellant approached this Court through CWP-24300-2017. Vide judgment dated 19.09.2023, the writ petition filed by the appellant was dismissed by a Single Judge of this Court. Hence, the present Intra Court Appeal.

3. Learned counsel for the appellant has been heard and with his assistance the record of the case has also been perused.

4. Learned counsel for the appellant has contended that while passing the impugned order the learned Single Judge has over looked the fact that earlier respondent No.3 had filed an application before the then Divisional Canal Officer, Abohar for transfer of 19.49 acres of land from Outlet No.88625/T.R. Ramasara Minor to Outlet No.196900-R Lambi Rajbaha Chak, which had been dismissed by the Divisional Canal Officer, vide his order dated 07.07.2005. But now through order dated 24.04.2017, the same authority had transferred the said land to Outlet No.196900-R Lambi Rajabaha which is wrong and illegal. On an earlier occasion also respondent No.3 had got transferred his land from the Chak of Outlet No.196900/TR Lambi Rajbaha to the Chak of Outlet No.88625/TR Ramsara Minor, on 19.05.2004. He has further contended that the area of this outlet is fairly large so as to easily accommodate the additional area of 26 acres for the purpose of irrigation. He has submitted that in the written statement filed by respondents No.1 and 2 (in writ petition No.10168-2004), it was mentioned that the Scheme concerning the remaining area of Village Shergarh falling in the chaks of outlets No.RD 196900-R Lambi,

Distributory is being transferred to a new proposed outlet at RD 94119 TF Ramsara Minor as per order dated 23.08.2004 passed by respondent No.2. But thereafter no new outlet, had been affixed and no area had been added in the new outlet. At the time of passing of order by the learned Single Judge on 19.09.2023, the Divisional Canal Officer had appeared, but he had not produced any record as to how much area of the outlet had been shifted and on which date it had been shifted. He has urged that the present appeal may be accepted and the impugned orders passed by the revenue authorities and the order passed by the learned Single Judge may be set aside.

5. It has been categorically mentioned in the order dated 24.04.2017 passed by the Divisional Canal Officer that “as per the site plan the land of the applicant is at a long distance from the existing outlet and from the proposed outlet it is near. Due to which length of water course will decrease and there will be better irrigation. The course of proposed outlet runs near the land of applicant. As per the demand of the applicant, in the proposed outlet, he is already having his land and his turn of water will become joint on one outlet, due to which it will get better irrigation ----- . The land of the applicant is also less than 10%, due to which, no difference will be caused to the capacity of water courses. Keeping in view all the aforesaid facts, the demand of the applicant is acceptable.”

6. Thus, through well reasoned orders, concurrent findings have been recorded by the canal authorities after considering all the aspects of the case, with the object of providing better irrigation to the land of respondent No.3 and without any loss of irrigation to the land of the appellant.

7. The perusal of the order of learned Single Judge reveals that it has been specifically mentioned therein that:-

“The Divisional Canal Officer who is present in the Court has produced the chart giving the details of the action taken by the State for the redressal of the grievances of the parties. He has submitted that 19.49 acres area was transferred from 196900/R Lambi Rajbaha to 88625/R Ramsara Minor in July, 2004. Thereafter, in 2017, 14.49 acres area was transferred from 88625/R Ramsara Minor to Outlet No.196900/TR Lambi Rajbaha. It is submitted by the learned Divisional Canal Officer that the warbandi could not be implemented due to the pendency of the writ petition. He has also submitted that the area of the petitioner is part of the Outlet No.196900/TR Lambi Rajbaha and some of the area has been transferred to Outlet No.6500/TF DHINGA Wali Minor. He has submitted that as per the new proposal, DHINGA Wali Minor, the total area falling under the original 6500/TF was 2191.30 acres and in 2008, 1140.71 acres was transferred to 6500/TFR whereas, 1050.59 acres was transferred by 6500/TFL. It is submitted that as per this new proposal, the grievances of both the sides have been redressed and there is no loss of water in irrigating the land of the petitioner and thus, the contentions raised are without any basis.”

8. Thus, from the order of learned Single Judge, it is apparent that the Divisional Canal Officer had produced the chart while giving the details of the action taken by the State for the redressal of the grievances of the parties and as per the new proposal the grievance of both the sides have been redressed and there is no loss of water in irrigating the land of the

appellants. The learned Single Judge has rightly observed that the grievances of the appellants and the respondents have been very well taken care of by the respondents-State by sanctioning the new Outlet and fields of the parties are being irrigated in an efficient manner and no infirmity was found in the orders dated 24.04.2017 and 01.09.2017.

9. In the light of the above, the learned Single Judge is found to have considered the matter in the right perspective. There is no illegality or perversity in the impugned judgment warranting any interference.

10. Dismissed.

11. All pending applications, if any, also stand disposed of accordingly.

(DEEPAK SIBAL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

30.11.2023

Komal

Whether speaking/reasoned?	:	Yes/ No
Whether reportable?	:	Yes/ No