

2024.PHHC.133457-DB



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

(107)

LPA-2231-2023 (O&M)

Decided on : 23.10.2024

Lal Chand

.....Appellant(s)

Versus

Superintending Canal Officer, Ferozepur & othersRespondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I. MEHTA**

Present: Mr.J.S.Warring, Advocates for the appellant.

G.S. Sandhawalia, J.(Oral)

CM-5586-LPA-2023

1. Exemption application is allowed, as prayed for.
2. CM stands disposed of.

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3. The unfortunate dispute herein is between two brothers regarding the sharing of water on 'turn-by-turn' basis. The Learned Single Judge while dismissing the writ petition bearing CWP-19489-2023, recorded that due to decrease in the level of land by the appellant, water was discharged directly to his land and respondent No.4, was being caused loss. It was also noticed that the appellant was selling his wari (turn) to the brick kiln and directions were issued by the authorities that recovery be made from the brick kiln owner regarding the water purchased by him from the appellant. The arrangement, thus, made by the authorities which is 'turn by turn' basis, was held to be more rational and orders passed by the authorities below had been upheld, vide judgment dated 04.09.2023.

4. We have perused the paperbook. The Deputy Collector had also noticed the said fact vide order dated 19.10.2011 (Annexure P-7). The Divisional Canal Officer on 16.05.2013 (Annexure P-8), who had inspected the said site and keeping in view the facts and circumstances, upheld the order passed by the Deputy Collector, while noticing that the present appellant had decreased the level of his land by digging the earth and therefore, water could not be discharged from his side.

5. The Superintending Canal Officer, after taking into account the contentions of both the parties and after discussion with the field staff, came to the conclusion that the present appellant was selling his turn to the brick kiln which was further certified by the statements made before the Illaqa Zileadar by the neighbouring field owners and thus, dismissed the appeal while directing that what had been purchased from the appellant for the last 10-12 years, be worked out and recovered from the brick kiln owner.

6. Thus, it is apparent that the authorities below have passed the orders after visiting the site and doing a spot inspection. The argument now sought to be raised that the methodology which has been fixed would deprive the appellant of irrigating his field, is not justified as both the parties have been put to equal standing by the authorities. Therefore, we are of the considered opinion that there is no occasion for this Court to take a different view.

7. Resultantly, in view of the above discussion, the present appeal is hereby dismissed in limine. All pending application(s) also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

23.10.2024
sailesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No