

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

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LPA-588-2024 (O&M)**Decided on : 09.09.2025**

NIRANJAN SINGH AND OTHERS

. .Appellants

Versus

THE STATE OF PUNJAB AND OTHERS

. . . Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

PRESENT: Mr. S.P.S. Tinna, Advocate,
Ms. Geeta Rani, Advocate for the appellants.

Mr. Rahul Rampal, Additional Advocate General, Punjab.

Mr. G. S. Bal, Senior Advocate with
Mr. Avtar Singh, Advocate for respondents No. 7 & 8.

HARSIMRAN SINGH SETHI , J. (Oral)

1. In the present appeal, the challenge is to the order dated 16.01.2024 passed by the learned Single Judge in the writ petition (CWP-12957-2020) which writ petition filed by the appellants challenging the order passed by the authorities concerned accepting the application filed by the respondents for bringing their land in the water course from the water outlet Mogha Burji No. 9450/R Machaki Minro to Lift Pump Connected with Sirhind Feeder Burji No. 140066/L, has been dismissed.

2. Learned counsel for the appellant submits that there is a procedure prescribed under the rules governing transfer of land from one water course to another for the purpose of irrigation describing as to how, the water outlet from which water is being derived for purpose of irrigation, can be changed, but in the present case, the said procedure has not been followed and rather it surfaces there has been no application of mind by



authorities concerned.

3. Learned counsel for the appellant submits that the claim of the respondents was for changing their water course from the water course Mogha Burji No. 9450/R Machaki Minor to water course Sirhind Feeder Burji No. 140066/L for purpose of irrigation of land, whereas, the scheme was prepared by authorities concerned for transfer of the water course to Mogha No. 140062/L which shows that the area of land belonging to respondents was proposed or transferred to Sirhind Faridkot Burji No. 140066/L.

4. Learned counsel for the appellant submits that once, the draft scheme which was prepared for transfer of the water course of the respondents for purpose of irrigation of their land, was prepared incorrectly and without any application of mind by the authorities concerned, hence, the same cannot be interpreted to mean that the same was prepared for Sirhind Faridkot Burji No. 140066/L and not for water outlet Mogha Burji No. 140062/L Sirhind Feeder.

5. Further, learned counsel for the appellant submits that even while issuing the notices to the co-sharers/affected parties, the proposed water outlet for purpose of transfer of land has been mentioned as Mogha Burji No. 140062/L Sirhind Feeder and not Mogha Burji No. 140066/L Sirhind Feeder, which makes it clear that there was no application of mind by the authorities concerned while dealing with issue of respondent qua change of water outlet and that the case of the respondents was being considered for the change of the water outlet to Mogha Burji No. 140062/L Sirhind Feeder.



6. Learned counsel for the respondents-State submits that the same was a typographical error and actually the scheme was prepared by authorities concerned for transfer of land of respondent to Mogha Burji No. 140066/L Sirhind Feeder and not for Mogha Burji No. 140062/L Sirhind Feeder.

7. Learned Senior counsel appearing on behalf of the respondents submits that all the proceedings which took place before the authorities concerned was done with an impression that the water outlet of the respondents for purpose of irrigation of land is to be changed from Mogha Burji No. 9450/R Machaki Minor to Sirhind Feeder from Mogha No. 140066/L that is why, the appellants herein were opposing the claim raised by respondents qua change of the outlet and in case, the respondents were not opposed to the transfer of land for the purpose of irrigation to Sirhind Feeder from Mogha No. 140062/L, it is unclear how the question of opposing the same at the hands of appellants arises, which unambiguously shows that the mentioned of water course 140062/L instead of 140066/L is only a typographical error and in actuality the proceedings which took place before the authorities concerned was qua the change of water outlet of the respondents from Mogha Burji No. 9450/R Machaki Minor to Sirhind Feeder from Mogha No. 140066/L

8. We have heard learned counsel for the parties and have gone through the case file with their able assistance.

9. A bare perusal of the rules which envisage over the process for changing the water outlet has been reproduced in the writ petition which rules are contained in the Northern India Canal and Drainage Act, 1873 and



the Punjab Amended Act, 1965, which amended the former Act.

10. As per the Section 30-A of the 1873 Act, inserted by Act 23 of 1965, a draft scheme has to be prepared by the Divisional Canal Officer and that too after giving due hearing to all the concerned parties, in case a particular water outlet of any person is sought to be changed. In the present case, the concededly, the draft scheme required to be prepared by District Canal Officer was prepared but the same was never prepared qua Sirhind Feeder from Mogha No. 140066/L as the same was prepared qua Mogha Burji No. 9450/R Machaki Minor to Sirhind Feeder from Mogha No. 140062/L.

11. Once, the draft scheme which is to be implemented has not been prepared qua the water outlet of Sirhind Feeder from Mogha No. 140066/L, the same cannot be implemented qua the said water outlet of Sirhind Feeder from Mogha No. 140066/L.

12. The arguments of the learned Senior counsel for the respondents that the mentioning of the earlier water outlet as Sirhind Feeder from Mogha No. 140062/L instead of Sirhind Feeder from Mogha No. 140066/L in the proceedings before authorities concerned is only a typographical error, the same has to be seen from the record of proceedings which proceedings were undertaken by the respondents after framing the draft scheme by the Divisional Canal Officer concerned.

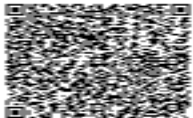
13 In the draft scheme, the vernacular has also been placed and the same has been written by hand and in there the water outlet in question has been mentioned as Sirhind Feeder from Mogha No. 140062/L and not Lift Pump Connected with Sirhind Feeder Burji No. 140066/L. Even while



issuing notices to all the concerned parties qua the change of the water outlet same has been mentioned as Sirhind Feeder from Mogha No. 140062/L and not Lift Pump Connected with Sirhind Feeder Burji No. 140066/L water outlet of Sirhind Feeder from Mogha No. 140066/L. That being so, it is a conceded position now that these notices were not issued as per the request of respondents, who wanted to change their water course to Mogha No. 140066/L and Mogha No. 140062/L.

14. Learned Senior counsel for the respondents has no option but to concede that the draft scheme for purpose of change of land for purpose of irrigation was not prepared in accordance with request of the respondents qua the application of the respondents for changing their water outlet Mogha Burji No. 9450/R Machaki Minor to Sirhind Feeder from Mogha No. 140066/L. That being so, the ultimate order accepting application of respondent for change of water outlet has been passed on the basis of the defective scheme, which cannot be upheld. The said fact has not been appreciated by the authorities concerned as well as by the learned Single judge, and therefore, orders passed by the revenue authorities changing the water outlet Mogha Burji No. 9450/R Machaki Minor to Sirhind Feeder from Mogha No. 140066/L, is incorrect keeping in view the said deficiency/defect in the draft scheme so prepared by authorities concerned which was to be implemented.

15. Keeping in view the totality of the facts and circumstances of the present case, the order passed by the authorities qua change of water course in favour of respondents changing their land to the water course Mogha No. 140066/L is set-aside and the impugned order dated 16.01.2024 passed by



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the learned Single Judge, is hereby set-aside.

16. However, the authorities concerned will be free to consider the application of the respondents for changing of their water outlet from Mogha Burji No. 9450/R Machaki Minor to Sirhind Feeder from Mogha No. 140066/L as per law. As enough time has elapsed, the said proceedings be culminated within a period of four months from the date of receipt of copy of this order by following the process as envisaged under law.

17. The present appeal stands disposed of in above terms.

18. Pending civil miscellaneous application(s), if any, stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

09.09.2025

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Whether speaking/reasoned: Yes/~~No~~

Whether Reportable: ~~Yes~~/No