

119 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-37449-2025 (O/M)

Date of decision : 16.01.2026

Baru Ram

..... Petitioner

Versus

Divisional Canal Officer, Tohana Water Services
Division, Tohana, District Fatehabad and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Mani Ram Verma, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG Haryana.

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HARSH BUNGER, J. (ORAL)

1. Prayer in this civil writ petition filed under Articles 226/227 of Constitution of India, inter alia, is for issuance of a writ in the nature of certiorari for setting aside order dated 02.07.2025 (Annexure P-4), passed by learned Divisional Canal Officer, Tohana (in short 'DCO') as well as letter dated 21.10.2025 (Annexure P-5) and letter dated 30.10.2025 (Annexure P-6) alongwith all proceedings for sanctioning watercourse on the basis of compensation at outlet No. 11000-L, New Siwani Minor, village Dehman (Bhuna) in Rect./Killa No. 110//3/2.

2. Briefly, respondent No. 3, Shri Suber Singh filed an application before the canal authorities under Section 18 of Haryana Canal and Drainage Act, 1974 (in short '1974 Act'), seeking sanctioning of alignment in respect of watercourse 'AB' in the chak of outlet RD-11000-L, New Siwani Minor, village Dehman, Tehsil Bhuna, District Fatehabad.

2.1 Thereafter, the matter was got investigated through Sub Divisional Canal Officer, Uklana (in short 'SDCO'), who prepared a draft scheme and recommended for its sanction.

2.2 On receipt of the scheme, notices were issued to all concerned parties for inviting their objections or suggestions (if any). The notices are stated to have been served in terms of Rule 96 of Canal Act and the matter was placed before learned DCO, who after considering the matter, passed an order dated 19.12.2023 (Annexure P-1), directing sanctioning of alignment of watercourse 'AB' on the northern side of Rect./Killa No. 110//3/2 under Section 18 (2) of 1974 Act, by holding as under :-

“I have heard the arguments of applicant as well as of respondent, who came present in the court at the time of hearing of this case. Khaka plan and other relevant record placed before the court has been perused. It has been observed that some area of the applicant falls in rectangle/killla No. 106//17/2, 24 for which, no watercourse is available at site. So the demand of the applicant to sanction the alignment of water course A-B for irrigation to his area on the basis of compensation is considered as genuine. Hence the alignment of watercourse A-B on the northern side of rectangle/killla No. 110/3/2 is hereby sanctioned Under Section 18 (2) of Haryana Canal and Drainage Act, 1974 on the basis of compensation subject to the condition that the amount of compensation for the land to be used for construction of water course A-B shall be paid by the applicant to the respondent in accordance with the provision of Section 21 of Haryana Canal & Drainage Act, 1974. Hence the scheme as published is hereby

*approved in the interest of development of canal irrigation.
The decision be conveyed to all concerned accordingly.”*

2.3 It transpires that one Shri Roshan Lal (son of petitioner-Baru Ram) challenged aforesaid order dated 19.12.2023 (Annexure P-1) by filing an appeal before learned Superintending Canal Officer (in short 'SCO'), which was dismissed, vide order dated 08.08.2024 (Annexure P-2) by holding as under :-

“It is evident from the parat warabadi that taking point of the respondent Ravinder S/o Suber Singh at serial No. 27 is fixed a point Rect./Killa No. 110//2x8 with 16 Minute bharai for 2 Killa length as per approved parat warabandi of outlet RD-11000-L New Siwani Minor of dated 26.08.2002. Thus it is clear that prior to its demolition this watercourse 'AB' was running along northern line of rect./Killa No. 110//3/2 and the same was previously restored on temporary basis. Since there is no other source of irrigation for the land located in rect./killa No. 106//17/2 & 24. Accordingly in the interest of irrigation development of the area the demanded watercourse along northern line of rect / killa No. 110//3/2 is hereby sanctioned on compensation basis. A case for payment of compensation as well as acquisition of land under section 21 of Haryana Canal & Drainage Act 29 of 1974 is to be framed by the trial court after collecting the Collector rates from the Collector Fatehabad prior to excavation of watercourse at site.

In the light of facts tabulated above, having baseless and devoid of merits, the appeal is hereby rejected. The decision dated 19.12.2023 passed by the Divisional Canal Officer, Tohana Water Services Division, Tohana is upheld.

Decision taken and be conveyed to all concerned.”

2.4 It further transpires that the aforesaid order dated 19.12.2023 and order dated 08.08.2024 (Annexure P-1 and Annexure P-2,

respectively), passed by learned DCO and learned SCO, were never challenged any further and same attained finality.

2.5. Thereafter, respondent No. 3 (Suber Singh) filed an application before canal authorities for sanctioning of compensation in terms of order dated 19.12.2023 and order dated 08.08.2024 (Annexure P-1 and Annexure P-2, respectively); wherein notices were issued to concerned parties.

2.6 Subsequently, learned DCO, vide order dated 02.07.2025 (Annexure P-4), determined the amount of compensation of the land coming under the alignment of watercourse 'AB', by observing as under :-

“I have heard the arguments of applicant as well as of the respondent, who came present in the court at the time of hearing of this scheme. Khaka plan and other relevant record placed before the court has been perused. The brief facts of the present case are that the water course A-B used to be running at site for irrigation to the area of the applicant and the alignment of this watercourse was approved by the Divisional Canal Officer, Tohana Water Services Division, Tohana U/S 18 (2) of the Act vide his decision dated 19.12.2023. The respondent filed an appeal U/S 20 (1) of the Act before the Superintending Canal Officer, BWS Circle, Fatehabad against the decision dated 19.12.2023 given by the Divisional Canal Officer, Tohana W/S Division, Tohana. The appeal filed by the respondent/landowner was dismissed and the decision dated 19.12.2023 given by the Divisional Canal Officer, Tohana W/S Division, Tohana was upheld. The respondent did not produce any proof to file the appeal in the court of Chief Canal Officer, BWS Unit, Haryana, Panchkula against the decision dated 08.08.2024 given by the Superintending

Canal Officer, BWS Circle, Fatehabad and thus the decision given by the Superintending Canal Officer, BWS Circle, Fatehabad has attained finality.

It is pertinent to mention here that there is no other source of irrigation to the area of the appellant except watercourse A-B in question. The length of water coruse from point A to B is 20 karams and width is 2 karams. The total area which comes under the alignment of watercourse A-B has been worked out as 0-04 marlas. The collector rate of the land in the area as reported by the Tehsildar Bhuna is Rs. 14,52,000/- per acre. By adding all the admissible benefits on the principal set out U/S-28 of New Land Acquisition Act, 2013, the amount of compensation has been determined as Rs. 82582/-.

The demand of the applicant to sanction the amount of compensation of the land coming under the alignment of watercourse A-B in dispute on the northern side of rectange/killa No. 110//3/2 is considered as genuine. Hence, the amount of compensation for Rs. 82582/- for the land coming under the alignment of water course A-B in dispute is hereby approved U/S-21 of Haryana Canal & Drainage Act, 1974, out fo which Rs. 72600/- shall be payable to the landowner/respondent and remaining Rs. 9982/- shall be deposited with the department being departmental charges. The detail of compensation will be as under :-

<i>Sr. No.</i>	<i>Name of land owners</i>	<i>Murba No./ Killa No.</i>	<i>Measur -ement</i>	<i>Area</i>	<i>Collector rate per acre</i>	<i>Amount of compen -sation</i>	<i>100% Solatium</i>	<i>27.5% depart- mental charges</i>	<i>Total amount of compen -sation</i>
<i>1.</i>	<i>Baru S/o Sheo Lal</i>	<i>110//3/2</i>	<i>20x2/9</i>	<i>0-04 Marlas</i>	<i>Rs. 14,52,000/-</i>	<i>Rs. 36,300/-</i>	<i>Rs. 36,300/-</i>	<i>Rs. 9982/-</i>	<i>Rs. 82,582/-</i>

The decision be conveyed to all concerned accordingly.”

2.7 A perusal of above extracted order dated 02.07.2025 (Annexure P-4) would show that another son of petitioner, namely, Sandeep, had appeared in these proceedings and raised objection to scheme of compensation, prepared by the department.

3. Be that as it may, after the compensation amount was assessed, the office of learned Divisional Canal Officer wrote a letter dated 21.10.2025 (Annexure P-5) to concerned Tehsildar for sanctioning of mutation of land acquired. Thereafter, another letter dated 31.10.2025 (Annexure P-6) was issued by the canal authorities to Shri Sandeep and Shri Roshan Lal (both sons of petitioner-Baru Ram) for receiving compensation of Rs. 72,600/-.

4. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition before this Court for seeking relief(s), as noticed hereinabove.

5. Learned counsel for petitioner has primarily raised two submissions; firstly that the alignment of watercourse 'AB', which has been sanctioned, vide orders (Annexure P-1 and Annexure P-2), are illegal and secondly, that the land for watercourse has not been acquired as per procedure prescribed under the Land Acquisition Act. It is submitted that since no proceedings were conducted for acquisition of land under the Land Acquisition Act, therefore, there was no question of determination of compensation, vide impugned order dated 02.07.2025 (Annexure P-4). Accordingly, prayer has been made for setting aside the impugned orders.

6. Heard.

7. As regards first contention raised on behalf of petitioner that the orders dated 19.12.2023 and 08.08.2024 (Annexure P-1 and Annexure P-2, respectively) are illegal, suffice it to say that petitioner has not challenged the aforesaid orders (Annexure P-1 and Annexure P-2) either in this writ petition or in any other proceedings. It has been conceded by learned counsel for petitioner that orders (Annexure P-1 and Annexure P-2) have attained finality. Once there is no challenge to the orders (Annexure P-1 and Annexure P-2), there is no occasion to go into its legality or otherwise; accordingly, the first contention of the petitioner is rejected.

7.1 As regards second contention raised on behalf of petitioner that no proceedings were conducted for acquisition of land under the Land Acquisition Act, it would be apposite to refer to Section 21 of 1974 Act, which reads as under :-

“Section 21. Notice of Acquisition of Land :-

- (1) The Divisional Canal Officer may either of his own motion or on the application of a shareholder publish in the manner prescribed a notice of his intention to acquire any land required for implementation of the scheme.*
- (2) Any person interested in the land notified under sub section (1) may within twenty one days from the publication thereof, apply to the Divisional Canal Officer by petition stating his objection to the proposed acquisition of his rights.*
- (3) After considering the objections, the Divisional Canal Officer may proceed to take the occupation of the land so required on behalf of the shareholders.*

- (4) *Compensation to be fixed by the Divisional Canal Officer on the principles set out under Section 23 of the Land Acquisition Act, 1894 (equivalent to Section 28 of New Land Acquisition Act, 2013) shall be payable by the shareholders in proportion to the Culturable commanded area under the scheme held by each one of them to the owner or occupier of any land for such acquisition and on failure of payment, the amount shall be recoverable as arrears of land revenue.*
- (5) *Any person aggrieved from order of the Divisional Canal Officer in respect of compensation may prefer an appeal within thirty days of the passing of the order to the Collector whose decision shall be final.”*

7.2 A perusal of above extracted Section 21 of 1974 Act would leave no manner of doubt that for the purpose of implementing a scheme in respect of a watercourse, the authorities can acquire the land upon payment of compensation, which has been duly carried out in the present case.

7.3 Since the Haryana Canal and Drainage Act, 1974 is a special act, inter-alia, governing the field of canals and drainage and also the matters connected thereto; which also includes Section 21 of 1974 Act that authorize the authorities to acquire the land for achieving the avowed purpose of the Act, no fault can be found with the same. Accordingly, the second contention raised on behalf of petitioner is also rejected.

8. That apart, in case the petitioner has any objection as regards compensation assessed by the authorities, in that eventuality, the petitioner should have availed the remedy under Section 21 of 1974 Act; however, no such course has been adopted.

9. No other point has been argued.
10. In the aforementioned circumstances, I find no merit in this writ petition and same is accordingly, dismissed.
11. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

16.01.2026
sjks

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