

(2015) 09 P&H CK 0381
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 14234 of 1994

Gurdip Singh

APPELLANT

Vs

Superintending Canal Officer, Ferozepur Canal Circle and
Others

RESPONDENT

Date of Decision : 16-09-2015

Acts Referred:

Northern India Canal and Drainage Act, 1873 — Section 68

Citation : (2015) 180 PLR 509

Hon'ble Judges : Paramjeet Singh, J.

Bench : Single Bench

Advocate : C.M. Munjal, for the Appellant; B.S. Cheema, D.A.G., for the Respondent

Final Decision : Dismissed

Judgement

Paramjeet Singh, J.—Instant writ petition, an unfortunate litigation between the cosharers regarding fixation of turns of water, has been filed for quashing the order dated 21.09.1994 (Annexure P-4) passed by respondent No. 1-Superintending Canal officer, Ferozepur Canal Circle, Canal Colony, Ferozepur. Brief facts of the case are that respondent No. 2 moved an application for amendment of warabandi under Section 68 of the Northern India Canal and Drainage Act, 1873. After effecting service upon the parties, Deputy Collector fixed the turns of water and granted residue (nikal) to respondent No. 2 vide order dated 07.09.1993 (Annexure P-1). Aggrieved against the order of the Deputy Collector, petitioner preferred an appeal before the Divisional Canal Officer, Abohar Division, Abohar. The Divisional Canal Officer vide order dated 07.10.1993 (Annexure P-3) dismissed the appeal, however, held that parties will get the "nikal" turn-wise. Perhaps the spirit of the order passed by DCO is that the parties will alternatively take the turn of water, since at that point of time land was joint. Against the order passed by DCO, respondent No. 2 preferred revision petition before the Superintending Canal Officer, which has been

allowed, order of the Divisional Canal Officer has been set aside and that of the Deputy Collector has been restored. Hence, this writ petition.

2. I have heard learned counsel for the parties and perused the record.

3. Original site plan has been shown to the Court. It is admitted fact that earlier the land was joint between the petitioner and respondent No. 2 and the same has been partitioned by Assistant Collector 1st Grade, Abohar, vide order dated 31.10.1994 (Annexure R-2/1), whereby respondent No. 2 and others have been given following khasra numbers:--

"82M/1/2(1-15), 10/1(1-5), 83M/5/2(1-11), 6(7-8), 7(7-11), 8/1(7-4), 3/3(0-8)."

4. From the perusal of site plan it is clear that the land bearing rectangle Nos. 82M71/2, 10/1, 83M/5/2, 6, 7, 8/1 and 3/3 fall at the fag end where the watercourse virtually ends. It is settled principle of law that "nikal" (residue) goes to the shareholder who falls at the fag end of the main watercourse. Moreover, it is settled law that fixing of turns of water is an ad hoc arrangement and can be changed in view of change of circumstances as held by this Court in CWP No. 16139 of 2011 titled Dharambir v. The Deputy Collector, Adampur Water Services Division, Hisar and others, decided on 13.10.2014. In view of above, I do not find any illegality or perversity in the impugned order.

Dismissed.