
(1980) 09 P&H CK 0034
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 110 of 1969

Haveldar Khiali Ram

APPELLANT

Vs

Superintending Canal Officer, Ferozepur Canal Circle,
Ferozepur and another

RESPONDENT

Date of Decision : 20-09-1980

Acts Referred:

Citation : (1981) ILR (P&H) 87 : (1981) PLJ 47 : (1985) RRR 262

Hon'ble Judges : S.S.Kang, J

Advocate : N.K. Suneja, Advocate, S.S. Mahajan, Advocate., Advocates for
appearing Parties

Judgement

S.S. Kang, J. (Oral)

1. Joginder Singh made an application that for proper irrigation of his lands water course denoted by points EHLMX, be sanctioned instead of water course EFX which was running at the spot. The matter was investigated an a scheme was prepared. However, the Divisional Canal Officer after examining the issue, came to the conclusion that the existing water course EFX was providing adequate irrigation, he, therefore, rejected the scheme. Dissatisfied with this order, Joginder Singh filed an appeal. The Superintending Canal Officer affirmed the decision of the Divisional Canal Officer. He, however, ordered that a Pucca Naka should be constructed at point "F". This order was passed on the agreement of both the parties. Aggrieved by this order, Haveldar Khiali Ram petitioners has filed this writ petition.

2. Mr. S.S. Mahajan, Advocate, learned counsel for the petitioner has contended that according to the law prevailing at that time, no appeal was competent against an order passed by the Divisional Canal Officer rejecting a scheme. There is no quarrel with this legal proposition. The law did not provide for any appeal in those days against an order of the Divisional Canal Officer rejecting a scheme. However, by the impugned order the Superintending Canal Officer has not in any manner interfered with the order passed by the Divisional Canal Officer. He has

not changed the water course. He has only ordered for provision a Pucca Naka instead of Kacha Naka at point "F". For providing such a Naka, no scheme is to be prepared. Therefore, the order of the Superintending Canal Officer is perfectly within jurisdiction. It is clearly mentioned in the order of the Superintending Canal Officer that the order was passed on an agreement between the parties. The petitioner had filed review application against this order after some time. Even in that review application, copy of which has been attached as Annexure "D" to the writ petition, it was not stated that the petitioner had not agreed to the passing of this order. Since the order had been passed on an agreement between the parties, the petitioner cannot now challenge the same.

3. There is no merit in this writ petition and the same is dismissed with no order as to costs.