

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

CWP No.20891 of 2011 (O&M)

Date of Decision: January 31, 2012

Shankar Lal

.....Petitioner

Versus

Superintending Canal Officer and others

....Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr. B.S. Mittal, Advocate
for the petitioner.

Paramjeet Singh, J

C.M. No.1200 of 2012

Application is allowed, subject to all just exceptions.

Copy of Warabandi (Annexure P-5) is taken on record.

CWP No.20891 of 2011

The instant writ petition has been filed under Article 226 of the Constitution of India for quashing of order dated 12.01.2011 (P-2) passed by Divisional Canal Officer, Rori Water Services, Division, Sirsa and order dated 20.04.2011 (P-3) passed by Superintending Canal Officer, Bhakhra Water Services Circle, Sirsa with regard to fixing of turn of water.

Brief facts of the case are that an application was filed by Satya Parkash and others residents of Village Chautala, Tehsil and District Sirsa before the Deputy Collector-respondent No.3 for change of turn of water which was alleged to be wrongly fixed. Petitioner/applicants alleged that Waris of Khata No.8, 9, 10 and 11 were wrongly fixed whereas the area of Khata No.13 is prior to Khatas No.8 to 11 and prayed that Wari of the petitioner/applicants should be fixed after Khata No.7 and thereafter Waris of Khata Nos.8 to 11 be fixed. The Deputy Collector vide order dated

03.06.2010 (P-1) fixed the Waris of Khata No.13 after Khata No.7 and thereafter Khata Nos.8 to 11. Raja Ram one of the co-sharer contesting the claim of the petitioner, filed an appeal before the Divisional Canal Officer, which has been accepted vide order dated 12.01.2011 (P-2) and the order of the Deputy Collector has been set aside. Petitioner preferred a revision before the Superintending Canal Officer and the same has also been dismissed vide order dated 20.04.2011 (P-3).

I have heard learned counsel for the petitioner and perused the orders placed on record.

The contention of learned counsel for the petitioner is that his land touches on the water-course which is shown with blue and yellow colour in site plan (Annexure P-4), whereas land of other persons is shown in brown colour. The water course is a compact water-course. Out of the main water-course, the branch water-course A, B and C also emerges. The turn of the petitioner has been fixed on the branch water-course and the Nakka taking is also fixed in Warabandi i.e. at point No.614/624 and the Nakka giving is fixed at 623/15 min where from the respondent takes his water and Nakka taking is fixed at 623/15 min and Nakka giving is fixed at 623/16 x 624/21. Clearly the turn of the water of the petitioner is on the branch water-course shown with arrow at figure 14 in the site plan on the branch water course 'AB'. It is a settled principle of law that firstly irrigation will be from the main water course thereafter turn reverts back to the main water-course. The reason for this is that once the main water course has to go ahead then firstly the branch water-course will irrigate the area covered under it. Because at the point of emergence of the branch water-course, water can be stopped to the branch water course then the water-course will run in the straight line in

the main water course. There should be no reverse flow of water if firstly the main water course is allowed to run then the supply is given to the branch water course then there will be reverse flow of the water. It is not possible and also not in the interest of better irrigation. The rules of Warabandi provide that firstly the branch water-courses will run then the water-course again run ahead in the main water-course after the irrigation of branch water-course is completed.

In view of above, I do not find any ground to set aside the orders passed by the Divisional Canal Officer and Superintending Canal Officer, in writ jurisdiction.

No merit.

Dismissed.

31.01.2012
vcgarg

(PARAMJEET SINGH)
JUDGE

In view of what has been said above, it is clear that there is no illegality or perversity in the order of the Collector. The Revenue Authorities below were, therefore, right in holding that the order of the Collector did not suffer from any illegality or perversity appointing/holding _____which may warrant an interference in proceedings under Article 226 of the Constitution.