

**(2010) 11 P&H CK 0347**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** C.W.P. No. 3832 of 1987

Natha Singh and Another

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

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**Date of Decision:** Nov. 11, 2010

**Acts Referred:**

- Constitution of India, 1950 - Article 226

**Hon'ble Judges:** Ranjan Gogoi, J

**Bench:** Single Bench

**Final Decision:** Dismissed

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### **Judgement**

Ranjan Gogoi, J.

This writ petition is directed against an order dated 27.4.1987 passed by the Superintending Canal Officer, Patiala Circle, I.B. Patiala allowing the appeal filed by the Respondents and reversing decision of the Divisional Canal Officer dated 3.9.1986 passed in favour of the present writ Petitioners.

2. The brief facts that will be required to be noticed for a resolution of the issues arising in the writ petition are stated below:

The writ Petitioners made an application to the Divisional Canal Officer for transfer of 14/14 acres of land which was included in command area outlet No. RD 5873/R Mirziana Sub Minor on the ground that they are irrigating the said land from outlet No. RD 10907/R with mutual consent of the other share holders of the land irrigated from the latter outlet. Spot inspection was ordered and after due verification a scheme was framed by which it was recommended that the land of the Petitioners should be shifted to the area covered by outlet No. 10907. Thereafter, the Divisional Canal Officer taking into account the stand taken by the parties present before him ordered that the land of the Petitioners should be transferred from outlet No. 5873 to 10907.

3. Against the said order of the Divisional Canal Officer some of the share-holders who were not present before the said authority filed an appeal contending that they were not heard prior to the impugned order of the Divisional Canal Officer and furthermore, the outlet No. 5873 is a flow outlet whereas outlet No. 10907 is lift outlet.

4. The Superintending Canal Officer heard the appeal and by the impugned order dated 27.4.1987 came to the finding that the order of the Divisional Canal Officer dated 3.9.1986 had been passed without hearing the interested share-holders. Furthermore, the said authority also recorded the finding that the both the outlets are lift outlets and the addition of the area of the Petitioners to outlet No. 10907 would have the effect of increasing the water course by 10% above its capacity which will result in outflow of water and cause damage to the fields/crops of the other share- holders . On the said basis the Superintending Canal Officer had thought it proper to allow appeal and reverse the order passed by the Divisional Canal Officer.

5. None is present at the hearing on behalf of the writ petition as well as the private Respondents No. 3 to 7. Shri Rajesh Bhardwaj, learned Additional Advocate General, Punjab is present on behalf of Respondents No. 1 and 2 to assist the court. He has been heard.

6. The case being of old vintage, all attempts to secure representations on behalf of the parties have not yielded any result. I have, therefore, perused the record and deemed it proper to dispose of the petition on merits.

7. The recitation of the facts stated above squarely indicates that the impugned order dated 27.4.1987 by the Superintending Canal Officer has been passed on two main grounds. Firstly, it has been held that the Appellants who are interested share-holders drawing water from outlet No. 10907 were not heard by the Divisional Canal Officer at the time of the passing of the order dated 3.9.1986. Secondly, it has been held that transferring the land of the Petitioners to the area covered by outlet No. 10907 will result in outflow of water from the water course which has the potential of causing damage to the crops and fields of the other interested share-holders. Both the aforesaid findings of the Superintending Canal Officer are essentially findings of fact. In fact, from the impugned order dated 27.4.1987, it is clear that the finding with regard to the possible overflow of water was based on the reports of the concerned authorities. The power of court exercising jurisdiction under Article 226 to interfere with the findings of facts is extremely limited. As long as facts recorded in the order of the Authority are based on relevant materials, the same are to be accepted for the purpose of adjudication of the legal rights of the contesting parties. In the present case both the findings of the Superintending Canal Officer are based on relevant materials and there is nothing to indicate that the said findings have been recorded on no materials or on consideration of any extraneous or irrelevant facts and materials. If that being so, the said findings have

to be accepted as correct which the court is inclined to do. Proceeding on the said basis the Court will have no occasion to interfere with the said findings recorded by the Appellate Authority.

8. Consequently, the writ petition is held to be without any merit and substance. It is accordingly dismissed with no order as to costs.