

**(2001) 05 P&H CK 0189**

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

**Case No:** Civil Writ Petition No. 1424 of 2000

Harpal Singh

APPELLANT

Vs

Divisional Canal Officer, Abohar  
and another

RESPONDENT

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**Date of Decision:** May 9, 2001

**Citation:** (2002) 3 RCR(Civil) 269

**Hon'ble Judges:** N.K. Sud, J; Jawahar Lal Gupta, J

**Bench:** Division Bench

**Advocate:** P.S. Brar, for the Appellant; M.C. Berry, D.A.G. Punjab for the Respondents Nos. 1 and 2, Mr. Tewari, for the Respondents No. 3 to 5 and Mr. Sanjay Singhmar, for the Respondent No. 6, for the Respondent

**Final Decision:** Dismissed

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**Judgement**

Jawahar Lal Gupta, J.

The Petitioner alongwith certain other persons filed an application that their land be shifted from outlet Nos. 2972/R and 41670/R on Bhagsar Minor to a new outlet No. 7100 TR on Khuranj. Sub Minor. The land was 179.12 acres approximately. This claim was rejected by the Divisional Canal Officer vide order dated June 17.1997. It was held that the Khuranj Sub Minor was in fact a private water channel owned by Respondents No. 3 to 5 and that the request of the Petitioners could not be allowed. A copy of this order is at Annexure P-2 with the writ petition. Aggrieved by the order, the Petitioner alongwith others filed an appeal. It was dismissed by the Superintending Canal Officer vide order dated October 8, 1998. A copy of this order is at Annexure P-2 with the writ petition. The findings recorded by the Divisional Canal Officer were affirmed.

2. The Petitioner who owns only 15 acres of land has now approached this Court through the present petition to challenge both the orders. He alleges that the finding that the Khuranj Minor is a private water channel is incorrect. In fact, vide order dated January 13, 1998 the Divisional Canal Officer has allowed shifting of land

to outlet No. 7100 TR on the alleged Sub Minor. On this basis, the Petitioner prays that the orders, copies of which have been produced as Annexure P-1 and P-2 be quashed.

3. Separate written statements have been filed on behalf of the official and private Respondents. It has been inter alia averred that the application filed by the Petitioner along with other persons "proceeded on a non-existent basis since there was no Khuranj Minor existing at the spot". Still further, it has also been averred that "only one person from village Lakhewali.... has approached this Hon"ble Court, and other erstwhile applicants are satisfied with the order of the authorities below". On merits, it has been stated that during partition of the country in the year 1947, the existing water-course which was used for irrigating the lands of the forefathers of the Respondents, was demolished. There was a state of uncertainty. In the year 1954 the forefathers of the answering Respondents had paid the price for 2.61 acres of land for construction of a water-course. Still further, they had also purchased 10 acres of land from the land owners. Thereafter, they had constructed Kachha water-course which is being used for irrigating their fields. Since it is a private water-course, neither the Petitioner nor any other private person can claim to have a right to get his land attached to this water channel. On these premises, the Respondents contest the claim of the Petitioner.

4. The Petitioner has not filed any replication to controvert the stand taken by the private Respondents.

5. Learned Counsel for the parties have been heard.

6. Mr. Brar contends that the findings recorded by the authorities are belied by the order passed by the Divisional Cananl Officer on January 13, 1998. Thus, the impugned orders should be quashed.

7. A copy of the aforesaid order has been produced as Annexure P-4 with the writ petition. We have perused this order. The names of the parties have not been given in the copy of the order produced by the Petitioner. However, a perusal of the order shows that it related to Respondents No. 3 to 6. Admittedly, they are the owners of the private water channel which has been described as Khuranj Sub Minor in this order. Nothing has been produced on record to show that the alleged water channel belongs to the State or that the land owners other than Respondents No. 3 to 6 have any right therein. In any case, the authorities have recorded categorical findings of fact. The factual position has been reiterated in the written statements filed by the Respondents. The Petitioner has not controverted the factual position by even filing a replication. There is no error on record. Therefore, no ground for interference is made out.

8. No other point has been raised.

9. In view of the above, we find no merit in this writ petition. It is, consequently, dismissed. No costs.

Sd/- N.K. Sud, J