



**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

\*\*\*\*

**CWP-13914-2025(O&M)  
Date of Decision: 15.05.2025**

Gurmeet Singh and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE HARSH BUNGER**

Present: Mr. Munish Gupta, Advocate  
for the petitioners.

Mr. Nirmaljit Singh Diwana, Sr. DAG, Punjab.

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**HARSH BUNGER J. (ORAL)**

Prayer in the present writ petition, filed under Articles 226/227 of the Constitution of India *inter alia*, is for issuance of a writ in the nature of *Certiorari*, for setting aside the order dated 05.03.2025 (Annexure P-5) passed by the learned Superintending Canal Officer, Patiala Canal Circle, Patiala.

2. Briefly, respondents No.4 and 5 submitted an application to the Canal Authorities seeking transfer of their land from Mogha Burji No.46865/Right Rajwaha Sangrur and inclusion thereof in Mogha Burji No.50600/Right Rajwaha Sangrur, on the plea that their area was not getting proper irrigation from the existing Mogha Burji No.46865/Right Rajwaha

Sangrur.

2.1. Upon receipt of the aforesaid application by the Canal Authorities, the matter was got inquired from the Field Staff, whereupon the concerned Zileदार recommended the transfer of area of respondents No.4 and 5 to the new Mogha Burji 50600/Right Rajwaha Sangrur and the matter was placed before the learned Divisional Canal Officer.

2.2. The learned Divisional Canal Officer vide order dated 15.03.2024 (Annexure P-1) found the demand of respondents No.4 and 5 to be valid and accordingly sanctioned transfer of their area to the new Mogha Burji 50600/Right Rajwaha Sangrur.

2.3. It transpires that the petitioners along with other shareholders filed an appeal against the order dated 15.03.2024 (Annexure P-1) before the learned Superintending Canal Officer, who vide order dated 12.06.2024 (Annexure P-3) remanded the matter back to the learned Divisional Canal Officer with the direction to pass a fresh order.

2.4. Upon remand, the learned Divisional Canal Officer disposed of the matter vide order dated 11.12.2024/30.12.2024 (Annexure P-4), whereby he ordered converting uncommand area qua 8 Bighas 12 Biswas of Village Balian into command area.

2.5. Feeling aggrieved against the aforesaid order dated 11.12.2024/30.12.2024 (Annexure P-4), respondents No.4 and 5 preferred an appeal before the learned Superintending Canal Officer, who vide impugned order dated 05.03.2025 (Annexure P-5), ordered transfer of 2.59 Acres from Mogha Burji 46865/Right Rajwaha Sangrur to new Mogha Burji 50600/Right Rajwaha Sangrur; and further ordered that 1.37 acres of uncommand area be made command area in Mogha Burji 50600/Right Rajwaha Sangrur; and further directed another 4 acres of area be made from

uncommand area to command area in Mogha Burji 46865/Right Rajwaha Sangrur. The relevant extract of order passed by learned Superintending Canal Officer (Annexure P-5), reads as under:

*“The record available on the file shows that the appellants-party by moving application/statement before Divisional Canal Officer had made prayer for transfer of their land from Mogha Burji 46865/Right Rajwaha Sangrur and inclusion thereof into Mogha Burji 50600/Right Rajwaha Sangrur and conversion of uncommand area into command area. With regard to the same, Divisional Canal Officer vide his order dated 15.03.2024 sanctioned the scheme but against the said order, in the appeal filed by the respondents-party before this Court i.e. Case No.25/2024 vide order dated 12.06.2024, the case was remanded to Divisional Canal Officer Sangrur to investigate into all the facts related to the case and to hear both the parties again and then to pass speaking order. Thereafter, the Divisional Canal Officer vide his order dated 30.12.2024 did command 5 acres land of appellants party in Mogha Burji 46865/Right itself. During the course of arguments, after listening to the pleadings of both the parties, level report was sought from the Divisional Canal Officer with regard to appellants' bandobast Nos. 678/2, 677/1, 677/2, 676, 675/1, 675/2, 674 with regard to both the Moghas i.e. 46865/Right and 50600/Right on separate basis. Thereafter the level report received from Divisional Canal Officer, flow command of both the Moghas of bandobast No. 678/2, 677/1, 677/2, 676, 675/1, 675/2 have been shown whereas bandobast No. 674 is lift command from Mogha Burji 46865/Right and is shown as flow command from Mogha Burji 50600/Right. It is worth mentioning that Divisional Canal Officer has earlier passed order dated 15.03.2024 in the present case under Section 20-30B(2) but this Court remanded the case and thereafter Divisional Canal Officer passed the order only under Section 20 whereas this case being pertaining to Section 20-30B(2), the same was required to be decided thereunder. In*

*this case, in the Fields Reports and in order dated 15.03.2024 passed by Divisional Canal Officer, the land of Village Balian has been shown under Mogha Burji 50600/Right whereas as per Form-A available on file, the land of Village Bhindra is also required to be entered in this Mogha. Keeping in view the level report as received from the Divisional Canal Officer, it will not be appropriate to only transfer bandobast No. 674/0-4 total 0-4 Biswas Pukhta (0.13 acres) of land from Mogha Burji 46865/Right and include the same in Mogha Burji 50600/Right and command thereof because the area being very less proper irrigation will not take the place. Therefore, the land of the appellants-party, being in excess in length from Mogha Burji 46865/Right in comparison to existing Mogha Burji 50600/Right, and thus keeping in view the said situation. for better irrigation, after transfer of bandobast No. 674/0-4, 675/1/2-9, 675/2/1-10, total 4 Bighas 3 Biswas Pukhta (2.59 acres) from Mogha Burji 46865/Right and inclusion thereof in Mogha Burji 50600/Right, bandobast No. 674/0-4, 675/1/1-5, 675/2/0-15, total 2 Bighas 4 Biswas Pukhta (1.37 acres) uncommand area is converted into 'taud' command and from Mogha Burji 46865/Right, bandobast No. 676/2-0, 677/1/2-0.677/2/0-3, 678/2/2-5 total 6 Bighas 08 Biswas Pukhta (4 acres) of uncommand land is converted into command land. The position of the Moghas will be as under:*

Sr. No.	Mogha and Rajwaha	Village	Existing Status		Proposed Status	
1.	46865/Right Rajwaha Sangrur	Balian	363	283	360.41	285.78
2.	50600/Right Rajwaha Sangrur	Balian	343	286	345.59	288.59
		Bhindra	18	18	18	18
		Total	361	304	363.59	306.59

*This order has been passed under Section 20-30B(3) of Northern India Canal and Drainage Act 8 of year 1873.”*

3. In the aforementioned circumstances, the present writ petition has been filed before this Court, seeking relief(s) as noticed hereinabove.

4. Heard.

5. In the present case, the prayer of respondents No.4 and 5 for transferring of their area from Mogha Burji 46865/Right Rajwaha Sangrur to new Mogha Burji 50600/Right Rajwaha Sangrur, has been allowed by the learned Superintending Canal Officer vide order dated 05.03.2025 (Annexure P-5). Before ordering the transfer to the new outlet, the learned Superintending Canal Officer has considered the level reports submitted by the learned Divisional Canal Officer with respect to the area comprised in Khasra Nos.678/2, 677/1, 677/2, 676, 675/1, 675/2, 674, with regard to both the Moghas i.e., 46865/Right and 50600/Right on separate basis. The learned Superintending Canal Officer further considered the flow command of both the Moghas over the said area except for Khasra No.674, which was under lift command from Mogha Burji 46865/Right Rajwaha Sangrur and was shown as flow command from Mogha Burji 50600/Right Rajwaha Sangrur. Accordingly, upon consideration of the matter, the learned Superintending Canal Officer was of the considered opinion that it would not be appropriate to transfer Khasra No.674 (0.13 acres of land) from Mogha Burji 46865/Right Rajwaha Sangrur to Mogha Burji 50600/Burji Rajwaha Sangrur, as the area was very less and proper irrigation will not be possible. It has further been observed by the learned Superintending Canal Officer that the area of respondents No.4 and 5 was at a much distance from the Mogha Burji 46865/Right Rajwaha Sangrur than the new Mogha Burji 50600/Right Rajwaha Sangrur. Therefore, keeping in view the better irrigation, the transfer of the area was allowed and shown as the conversion from the uncommand area to the command area while also keeping in view the relative position of both the Moghas.

6. Learned Counsel for the petitioner has failed to dislodge the

observation made by the learned Superintending Canal Officer while permitting transferring of area to the new outlet.

7. In *Sham Sunder v. Superintending Canal Officer, Ferozepur, 2001(4) RCR (Civil) 35*; a Division Bench of this Court observed as under:-

*“5. Even otherwise, we find no ground to interfere. The Canal Authorities are the best judges for the situation at the spot. If on a consideration of the matter it has been found that the fields of the petitioner can be properly irrigated from the existing outlet, this court cannot interfere in proceedings under Article 226 of the Constitution unless it is shown that the order is patently illegal and arbitrary. Nothing of the sort has been pointed out...”*

7.1. And in *Mohinder Singh v. State of Punjab, 2012(67) RCR (Civil) 760*; a Division Bench of this Court observed as under:-

*“...We are of the opinion that the matter of transfer of an area from one outlet to another by the canal authorities should be seldom interfered with in the writ jurisdiction, particularly when the canal authorities had taken the decision after hearing the interested parties and in the interest of better irrigation, and also considering that while making such transfer, the maximum land will be properly irrigated...”*

8. Considering the totality and circumstances of the present case, I find no merit in the present writ petition, the same is accordingly dismissed.

9. All pending application(s), if any, shall also stand closed.

15.05.2025  
Pd

(HARSH BUNGER)  
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No