

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

CWP No. 12633 of 2013 (O&M)

Date of decision: 28.07.2015

Sahib Ram

...Petitioner

Versus

The Superintending Canal Officer, Ferozepur and others

...Respondents

**CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN**

Present: Mr. Sandeep Khunger, Advocate for the petitioner.

Mr. Mehardeep Singh, DAG, Punjab.

Mr. S.P.S. Tinna, Advocate for respondent No.3

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**Jitendra Chauhan, J. (Oral)**

By way of the instant writ petition, under Articles 226/227 of the Constitution of India, the petitioner seeks quashing of the impugned order dated 28.10.2009 (Annexure P-13), passed by respondent No.2 and order dated 09.09.2011 (Annexure P-14), passed by respondent No.1, whereby the application filed by the petitioner under Section 30-FF of the Northern India Canal & Drainage Act was dismissed.

The learned counsel for the petitioner contends that the petitioner purchased the land measuring 7.16 acres from respondent No.3, situated in village Daulatpura. The said land was irrigated

through watercourse A-B. The learned counsel refers to the order dated 08.04.2006 (Annexure P-3) and states that the warabandi was duly sanctioned by the competent authority on watercourse A-B, which was demolished by respondent No.3. He further refers to Annexure P-9 to contend that the field staff had also verified the fact of demolition of warabandi. Even in the site plan, the Patwari and Zileadar had certified that on the eastern boundary of Rectangle No.121 Killa No. 5-6, the watercourse is in existence and is running on the spot. The Zileadar, after inspecting the spot, certified that in Killa No. 5-6 of Rect. No. 121 M on the eastern side of the passage, there are signs of existence of watercourse. The watercourse A-B was running for number of years and turns of water was also sanctioned on this watercourse, vide his report dated 19.09.2006 (Annexure P9). On receipt of the report from Zileadar, the SDO recommended for the restoration of the watercourse A-B, vide his report dated 20.09.2006 (Annexure P-10). The learned counsel further submits that the impugned orders were illegally passed without considering the factual aspect of the matter. The petitioner had been getting his land irrigated through watercourse A-B, which has been demolished by respondent No.3. He prays for the restoration of the same.

On the other hand, the learned State counsel submits that the watercourse in question is the personal watercourse of respondent No.3 which had been carved out by him to irrigate his

land.

The learned counsel for respondent No.3 states that the petitioner with a mala fide intention filed an application for restoration of the demolished water course and under the garb of the same, he wants his land to be irrigated through the watercourse in question, whereas the area in dispute never received water from the alleged demolished water course. The watercourse in question is the personal watercourse of respondent No.3 and the petitioner has no right to irrigate his land from the same.

I have heard the rival contentions of learned counsel for the parties and have gone through the record minutely.

The precise grievance of the petitioner is that from the watercourse A-B which runs on eastern boundary of Killa No. 5-6 comprising in Rectangle No. 121-M, the petitioner had been getting water to irrigate his land which has been demolished by respondent No.3, due to which the petitioner suffered huge loss. A bare perusal of the record reveals that the petitioner purchased the land in the year 2006 from the co-sharer of respondent No.3. The watercourse in question was the personal watercourse of respondent No.3 and he got his turns of water sanctioned in his favour from Deputy Collector, Abohar by starting watercourse on other side. The authorities below have rightly held that the land of the petitioner was never irrigated through the watercourse in question. It is worthwhile to mention here

that Mrs. Surjit Kaur, earlier owner of the land herself make the arrangement of the watercourse for irrigating the land. The petitioner is a vendee of the land and thus bound by the act and conduct of his vendor-Surjit Kaur. The land, which the petitioner purchased, never got water as per warabandi. The orders of the authorities below are not perverse or without jurisdiction.

Keeping in view the above facts and circumstances, no case for quashing the impugned order dated 28.10.2009 (Annexure P-13), passed by respondent No.2 and order dated 09.09.2011 (Annexure P-14), passed by respondent No.1, is made out.

Dismissed.

28.07.2015

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**(JITENDRA CHAUHAN)**  
**JUDGE**