

In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 18280 of 2015 (O&M)

Date of Decision: May 18, 2016

Ajit Singh and another

... Petitioners

Versus

Superintending Canal Officer and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

Present: Mr. Lal Singh Sandhu, Advocate,
for the petitioners.

Paramjeet Singh Dhaliwal, J. (Oral)

CM-15911-CWP-2015

Civil Misc. application is allowed subject to all just exceptions.

Annexure P/6 is taken on record.

CWP No. 18280 of 2015

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing order dated 18.09.2014 (Annexure P/2) passed by respondent no.3 – Sub Divisional Canal Officer, Ottu Water Services Sub Division, Sirsa, order dated 11.03.2015 (Annexure P/4) passed by respondent No.2 – Divisional Canal Officer, Sirsa Water Services Division, Sirsa and order dated 29.06.2015 (Annexure P/5) passed by respondent No.1 – Superintending Canal Officer, Bhakra Water Services Circle, Sirsa.

Brief facts of the case are that petitioners moved an application for restoration of watercourse carved out of water outlet No. 49000-L,

Northern Ghaggar Canal of Village Santawali, Tehsil Rania, District Sirsa alleged to have been demolished by respondent no.4 – Sukhdev Singh and reference to site plan (Annexure P/1) has been made by the petitioners. After hearing the parties, the Sub Divisional Canal Officer, vide order dated 18.09.2014 (Annexure P/2), restored the watercourse for one year. Against that order, petitioners preferred an appeal before the Divisional Canal Officer, which has been dismissed vide order dated 11.03.2015 (Annexure P/4). Thereafter, petitioners preferred a revision petition which has also been dismissed by the Superintending Canal Officer vide order dated 29.06.2015 (Annexure P/5). Hence, present writ petition.

I have heard learned counsel for the petitioners.

Learned counsel for the petitioners vehemently contended that watercourse ABC was in existence which has been demolished. The watercourse emerges from pucca watercourse which is shown with green colour in the site plan (Annexure P/1).

I have considered the contentions raised by learned counsel for the petitioners and perused the record.

There is no document placed on record with regard to the turn of water from which it can be inferred that petitioners were taking nakka from particular khasra number and they were giving nakka to respondent no.4. The warabandi is the best document to prove nakka taking and nakka giving which has been withheld. Since there is no document on record, it cannot be inferred that watercourse was existing at any point of time. Rather, findings have been recorded by all the authorities that lined watercourse i.e. pucca watercourse is passing through the land of Ajit Singh – petitioner without any provision of nakka in the said watercourse on the

southern side. The concurrent findings have been recorded in this regard. Further perusal of site plan reveals that the question of watercourse emerging from the land of Deep Singh and others, does not arise because the watercourse itself is passing through the land of the petitioners which is shown with green colour in the site plan (Annexure P/1). The petitioners cannot ask for restoration, rather they should apply for providing nakka in the pucca watercourse which has bifurcated their land. Learned counsel for the petitioner submits that petitioners have already applied for nakka in the pucca watercourse which may be opened in their own land. The petitioners can pursue their remedy independently in this regard.

In view of above, I do not find any illegality or perversity in the impugned orders.

Dismissed.

May 18, 2016
vkd

[Paramjeet Singh Dhaliwal]
Judge