

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

**CWP No.10959 of 2012
Date of Decision.27.03.2017**

Surjit Singh son of Arjan SinghPetitioner
Vs
State of Punjab and othersRespondents

Present: Mr. J.S. Chahal, Advocate
for the petitioner.

Mr. Yatinder Sharma, Addl. A.G., Punjab.

Mr. S.S. Chopra, Advocate
for respondent Nos.4 and 5.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioner is aggrieved of the impugned orders Annexures P-7 and P-8 to contend that the application of the private respondents for restoration of water course as indicated in the impugned orders i.e. restoration of Khal 'EF' is erroneous and against the documentary evidence on record. The khasra girdawari does not reflect that the land is being irrigated through canal irrigation, in essence, the private respondent has failed to establish the three ingredients viz; (i) sanction; (ii) prescription and (iii) agreement, thus, onus was not discharged, therefore, the order under Section 30 FF of the Northern Indian Canal and Drainage Act of 1873 could not have been passed. The matter had reached this Court which had been remanded back and after remand, both the authorities i.e. the DCO and SCO have erroneously allowed the application and dismissed the appeal, thus, the orders under challenge are not sustainable in the eyes and liable to be dismissed.

respondents submits that the water course 'EF' i.e. Nehri Khal was very much in existence which was demolished by the petitioner, much less, the report of the Zileदार leads to irresistible conclusion of demolition of water course and therefore, the writ petition is wholly without jurisdiction and liable to be dismissed.

I have heard learned counsel for the parties and appraised the paper book. No doubt, the Divisional Canal Officer had not got the spot inspected through Zileदार or himself inspected but the order of the Superintending Canal Officer reveals that Zileदार was appointed, who inspected the spot on 18.10.2011 and showed that the disputed khal had been found in existence at the spot and referred the girdawaris in the concerned file regarding field Nos.13/2, 14/1, 18/1, 17/2 and 24/2 whereby the private respondents had been receiving the canal water. In this backdrop of the matter, the Superintending Canal officer upheld the order of the Divisional Canal Officer.

The petitioner has not been able to rebut the report of the Zileदार, much less, place on record any document to show non-compliance of three ingredients referred to above.

For the reasons aforementioned, the orders passed by the authorities are perfectly legal and justified. No ground for interference is made out, much less, doctrine akin to judicial review. The writ petition stands dismissed.

(AMIT RAWAL)
JUDGE

March 27, 2017
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No