

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

CWP No.14855 of 2013
Date of decision : 06.03.2017

Ajaib Singh
(deceased through LRs)

...Petitioner

Versus

Superintending Canal Officer, Patiala and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. A.G.S. Dhillon, Advocate for the petitioner.

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

Mr. J.S. Virk, Advocate for respondent No.3.

AMIT RAWAL, J. (Oral)

The petitioner is aggrieved of the impugned order dated 25.04.2013 (Annexure P-8) which came to be passed in pursuance to the directions contained in the order dated 09.10.2012 passed in CWP No.7749 of 1999 wherein Superintending Canal Officer was directed to pass an order by taking into consideration the report dated 06.08.1997.

Mr. A.G.S. Dhillon, learned counsel appearing on behalf of petitioner submits that SCO has taken into consideration another report dated 18.03.1997 and thereafter held the report to be contradictory, thus, there is no regard and respect to the orders of the Court. This fact has not been disputed by Mr. Virk, Advocate for respondent No.3

Without delving upon merits and demerits, much less, rival

contention of the parties with regard to demolition of water course as AF as reflected in site plan Annexure P-1, I deem it appropriate to set aside the impugned order dated 25.04.2013 (Annexure P-8) and remand the matter back to SCO enabling the parties to establish their respective claims on the basis of the pleadings, much less, documentary evidence set out herein and as well as before the authorities to establish whether there was the demolition of water course or no water course was in existence as per provision of Section 30-FF of the Northern Canal and Drainage Act, 1873.

Resultantly, impugned order dated 25.04.2013 (Annexure P-8) is set aside. Matter is remitted back to SCO, who shall decide the matter afresh within a period of four months from the date of receipt of certified copy of the order.

Parties through their counsel are directed to appear before SCO on 31.03.2017.

Permission is granted to place on record material and evidence.

With the aforementioned observations, present writ petition is disposed of.

06.03.2017
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(AMIT RAWAL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No