

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.12122 of 2017
Date of Decision: 08.08.2017

Pritam Singh

....Petitioner

Vs.

Superintending Canal Officer, Bhakra Water Services Circle, Kaithal and
others

....Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Vikas Gupta, Advocate,
for the petitioner.

Ms.Tanisha Peshawaria, DAG, Haryana.

Mr.R.N. Lohan, Advocate,
for respondent No.4.

RAKESH KUMAR JAIN, J.

The petitioner has challenged the orders passed by the Canal authorities dated 23.11.2015, 29.4.2016 and 27.4.2017 by which the water course in dispute has been ordered to be restored in terms of Section 24 of the Haryana Canal Drainage Act, 1974 [for short 'the Act'] for a period of one year through the holding of the petitioner and others.

According to the respondents, New Sinsar Minor was commissioned in year 2011 and the tail of this Minor exits at RD 23430/TF New Sinsar Minor in the holding of the petitioner. The outlet at RD 23430/TF New Sinsar Minor was initially allowed for an area of 231/231 acres out of which 200/200 acres area is of Village Bidhrana and 31/31 acres area is of village Singwal. The water course in dispute was running through the holding of the petitioner since the channel was constructed at the site but

after about two and a half years, the petitioner had allegedly demolished the running water course. According to the respondents, the petitioner had filed Civil Suit No.297 of 2015 in which the Canal Department was not made a party. The stay application was dismissed by the Civil Court at Narwana but the Civil Court at Jind granted the stay.

The case of the petitioner is based upon the order of the Civil Court but according to the private respondents the water-course was running at the site for about three years and was demolished by the petitioner. It is also submitted that the Civil Court jurisdiction is barred in view of section 29 of the Act.

I have heard learned counsel for the parties and perused the record.

The Sub Division Canal Officer passed the following order: -

“I inspected the site on 21.11.2015 and the water course in dispute was found demolished due to which the irrigation of large area has been stopped at site. The water course in dispute falls within the ambit of temporary water course under Section 2(12) of Haryana Canal & Drainage Act of 1974. So, I order to restore the demolished water course to its original condition for the period of one year only under Section 24 of Haryana Canal & Drainage Act of 1974. The decision be conveyed to all concerned accordingly.”

The aforesaid order was followed by the decision taken by the Divisional Canal Officer upholding the order of the SDCO and his order has been upheld further by the SCO by passing the following order : -

“After hearing the arguments of both the parties and consulting the khaka plan, decision dated 29.04.2016 passed by DCO Narwana W.S. Division Narwana, and all other relevant record placed before the Court it is observed that the water course in dispute, as per the official record had been running at site and due to demolition of this water course, the irrigation of large area has been stopped at site. The Divisional Canal Officer, Narwana W.S. Division, Narwana has rightly passed order to bring the demolished water course to its original condition for the period of one year as decided by SDCO, Narwana W.S. Sub Division, Narwana vide order dated 23.11.2015.

Keeping in view of the above facts, I find no merit in the appeal, hence the same is dismissed. The order dated 22.8.2016 passed by the Divisional Canal Officer Kaithal Water Service Division Kaithal is upheld.”

Thus there is hardly any reason for this Court to interfere in the concurrent finding of fact recorded and therefore, the present petition is hereby dismissed with cost of ₹10,000/-.

08.08.2017

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*