

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

CWP No.18562 of 2015
Date of decision : 25.04.2017

Ramphal

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. S.S. Gill, Advocate for the petitioner.

Mr. Rajbir Singh, AAG, Haryana.

Mr. Ramandeep, Advocate for
Mr. Sumeet Goel, Advocate for respondent Nos.6 and 7.

AMIT RAWAL, J. (Oral)

The petitioner is aggrieved of the impugned orders (Annexures P-1, P-2, P-3 and P-4), whereby on the application moved by Naurang, the water course alleged to have been dismantled by the petitioner has been ordered to be restored.

Mr. S.S. Gill, learned counsel appearing on behalf of the petitioner submits that there is wrong appreciation of the evidence, much less, report of Zileadar as the land of the petitioner is 1 killa away from the water course. There was no water course in existence either by prescription or sanction or by agreement. The alleged demolition by the petitioner as accorded by the Chief Canal Officer is not on permanent basis. SDCO had

ordered for restoration of water course for a period of one year but both the parties were aggrieved of the same and appeal preferred by the petitioner was dismissed. It is in this aspect of the matter, the present writ petition has been filed. Orders under challenge are not sustainable in the eyes of law and are passed with undue haste without inspection of the record, much less, no evidence has been placed on record with regard to the turn of the water or alleged demolition thereof by the petitioner.

Per contra, Mr. Rajbir Singh, AAG, Haryana and Mr. Ramandeep, Advocate for Mr. Sumeet Goel, learned counsel appearing on behalf of respondent Nos.6 and 7 submit that authorities below have taken into consideration that no warabandi has been found, whereby turn of the private respondents has been fixed, whereas it is the clincher that the private respondents had been irrigating land from the water course from point A to B and water course has been found from the outlet RD-29700/R and thus urges this Court for affirming the findings as the concurrent findings of facts cannot be interfered until and unless there is gross illegality and perversity which has not been pointed out.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is no force and merit in the submission of Mr. S.S. Gill, Advocate for the petitioner.

On going through the order of the Chief Canal Officer (Annexure P-4), there is candid admission by the petitioner of existence of the water course. Even warabandi noticed by the authorities below would show that turn of the respondents was fixed at Sr. No.54, thus, there is compliance of provision of Sub-Section 15 of Section 2 of Haryana Canal

and Drainage Act, 1974 which enables the existence of water course on three counts i.e. by sanction, prescription and agreement.

In my view, petitioner has not been able to point out as to how and what manner order of the authorities is vitiated in law and therefore could not bring the case within the realm of aforementioned provisions.

The orders under challenge are perfectly, legal and justified.

No ground for interference is made out.

Accordingly, present writ petition stands dismissed.

25.04.2017

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No