

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

CWP No.18888 of 2016 (O&M)

Date of decision:02.02.2017

Avtar Singh

... Petitioner

Vs.

The Superintending Canal Officer, Ferozepur
Canal Circle and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Peeush Gagneja, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The petitioner is aggrieved of the impugned orders dated 18.05.2011 (Annexure P-1) passed by respondent no.2 – Divisional Canal Officer, Eastern Canal Division, Ferozepur and 18.03.2016 (Annexure P-2) passed by respondent no.1- The Superintending Canal Officer, Ferozepur Canal Circle, Ferozepur, whereby, the water course outlet burji No.32895-R Tarobari Rajabaha, Water Course ABCDEFG, has been restored, in essence D-1, E-1 demolished portion and point C to D, of Murabhah No.83, Killa No.17-18 Southern boundary along with passage portion point D to E, has been restored.

Mr. Peeush Gagneja, learned counsel appearing on behalf of the petitioner submits that the water course was neither sanctioned nor in existence, therefore, it could not have been ordered to be restored. The report of Halqa Zildar is contrary to the factual position on record. In fact, no spot verification was done, thus, it cannot be looked into. The correct site

plan (Annexure P-4) placed on record does not seem to be sanctioned one, therefore, the orders under challenge are not sustainable. The land of the petitioner is on higher level and he is irrigating the land through his own tube-well. He further submits that no compensation has been paid to him, therefore, he is aggrieved of the aforementioned orders.

I have heard learned counsel for the petitioner, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Peeush Gagneja, Advocate. The site plan Annexure P-4 reveals the description of the property showing dotted red colour being demolished one. Even it was not sanctioned one. The reliance of other two documents, namely, the agreement or by prescription would not take away the right of the person for seeking restoration, in case, it is found demolished. From the point 'D' to 'E', reveals that it has been demolished. Once the petitioner did not have any grievance for restoration of water course, according to him, though was not sanctioned, much less no document has been placed on record and the site plan has not been disputed, rather being relied upon, the impugned orders, in my view, are perfectly legal and justified, much less no ground is made out for interference.

Accordingly, the writ petition stands dismissed.

(AMIT RAWAL)
JUDGE

February 02, 2017
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No