

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

**CWP No.26796 of 2016
Date of Decision.16.02.2017**

Ujagar Singh

.....Petitioner

Vs

Superintending Canal Officer and others

.....Respondents

Present: Mr. Sureinder Garg, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioner is aggrieved of the impugned orders whereby the water course shown as CF in the site plan has been ordered to be restored.

Mr. Surender Garg, learned counsel appearing for the petitioner submits that the private respondents have failed to establish three essential ingredients for seeking the relief before the authorities: (i) sanctioned water course; (ii) by prescription and (iii) by agreement and the aforementioned satisfaction has also not been recorded by the authorities. Mere lack of warabandi/turn of water is not a ground for restoration of the water course. Even perusal of the site plan (Annexure P-3) does not reflect that the water course is flowing from the point F, thus, the findings given by authorities are totally off the record. The matter is, therefore, required to be re-probed/revisited by remanding the matter back to the authorities.

On the other hand, respondent No.3 is irrigating his field through the brick-lined water course i.e. from the other side of the land. All these factors were required to be seen. Having failed to do so, there is gross illegality and perversity.

paper book and of the view that there is no ground for interference, much less, force in the submissions, for, the petitioner-Ujagar Singh was arrayed as respondent in the application submitted by Harpal Singh son of Satwant Singh as reflected from the order. Even the co-sharer had also suffered a statement with regard to the demolition of the water course and restoration of the same. The turn of water had already been allotted to the private respondent as per Rule 68. The water course was in existence since 2014 which itself is compliance of one of the requirements indicated above.

All these factors weighed in the mind of the authority. Kulwant Singh, one of the co-sharers, also admitted that he had demolished the water course from the land comprising in killa No.20/2 of Mutsil No.36. On the other hand, petitioner has not been able to place on record any document to demolish the aforementioned water course CF.

For the foregoing reasons, I do not intend to differ with the findings rendered in the impugned orders as the same are based upon fact and law, much less, no ground for interference is made out.

The writ petition is dismissed.

(AMIT RAWAL)
JUDGE

February 16, 2017
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No