

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

**Letters Patent Appeal No.44 of 2017
DATE OF DECISION: 18.01.2017.**

Mala Ram

....Appellant(s).

Versus

**Superintending Canal Officer, Bhakra Water Services Circle-1, Hisar
and others**

...Respondent(s).

**CORAM: HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE (DR.) SHEKHER DHAWAN**

Present: Mr. V.D. Sharma, Advocate for the appellant.

Mahesh Grover, J.(Oral)

The appellant is aggrieved of the order dated 21.12.2016, passed by the learned Single Judge, affirming the order of the Divisional Canal Officer permitting the watercourse on the basis of an agreement entered into by the appellant and respondent No.4 during partition proceedings. The appellant now disputes the order on the ground that Section 24 of the Haryana Canal and Drainage Act, 1974 (hereinafter referred to as “the Act”), would not permit such an order which would be clearly beyond the jurisdiction of the authorities conferred by the said provision of the Statute.

We notice that the Divisional Canal Officer visited the spot and concluded that there is no other source of irrigation except the watercourse now disputed by the appellant, which came into existence on the strength of settlement *inter se* between the parties during partition proceedings and thus, taking refuge under Section 2(15) of the Act, which is a definition of watercourse and means any channel including all its subsidiary works which

is supplied with water from a canal, but not maintained at the cost of State Government, but sanctioned under the Act or is in existence under an agreement or by prescription. The watercourse agreed to by the parties would certainly come within the ambit of Section 2(15) of the Act to mean the watercourse 'existing under an agreement' and once the Divisional Canal Officer through his personal knowledge, acquired by visiting the spot, concluded that there is no other watercourse available to respondent No.4, there would be no reason to interfere with the impugned orders on the ground urged before us i.e. the grant of watercourse being beyond the purview of Section 24 of the Act. Evidently, the appellant, after having derived certain benefits during the partition proceedings on the basis of an agreement between him and respondent No.4 is now seeking to subvert the rights of the said respondent by adopting this obstructive attitude. Finding no illegality in the impugned order, we decline to interfere in the instant appeal.

Consequently, the instant appeal stands dismissed.

(MAHESH GROVER)
JUDGE

(SHEKHER DHAWAN)
JUDGE

18.01.2017

DK/komal

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No