

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

LPA No.626 of 2017 (O&M)

Date of Decision : 20.07.2017

Karan Singh

....Appellant

Versus

Superintending Canal Officer and others

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI

....

Present: Mr. Virender Singh Punia, Advocate
for the appellant.

....

MAHESH GROVER, J. (Oral)

Learned counsel for the appellant contends that the impugned order suffers from a grave infirmity as it has not taken into consideration the provisions of Section 24(1) of the Haryana Canal and Drainage Act, 1974 which lays down that a temporary watercourse can be allowed but not beyond a period of one month. It has been asserted that there was an illegal watercourse from point 'A' to 'B' depicted in the site plan and its restoration could not have been ordered. Reliance has been placed on *Jagar Singh v. Superintending Canal Officer and others*, 1972 PLJ 147.

The learned Single Judge opined on the basis of the stand of the respondent/State in the written statement that

watercourse was in existence since long and, therefore, in terms of the provisions of Section 2(15) of the Haryana Drainage and Canal Act prescribing three conditions for recognizing the legitimacy of a watercourse i.e by sanction, by prescription and by agreement negated the plea of the appellant to uphold the orders of the canal authorities. Before us learned counsel for the appellant has himself argued that this watercourse was dug by the Haryana State Minor Irrigation Tubewells Corporation in the year 1980 but it disintegrated due to non-use.

Once the appellant admits that this watercourse was constructed by the Haryana State Minor Irrigation Tubewells Corporation, it would be a clear concession of the view of the existence of a watercourse since long.

We have also seen the site plan placed on record by way of Civil Misc.No.2671-LPA of 2017 and are of the opinion that restoration of this watercourse from point 'A' to 'B' would not only benefit the appellant himself but also respondents No.4 and 5.

The plea of the appellant that this watercourse is illegal is totally misplaced, particularly when he has conceded that it was constructed by the Haryana State Minor Irrigation Tubewells Corporation which would belie the existence of an illegal watercourse.

The site plan shows the existence of a sanctioned water course but the restoration is only from point 'A' to 'B' and as noticed by us earlier is in the interest of irrigation.

No ground to interfere.

Dismissed.

(MAHESH GROVER)
JUDGE

20.07.2017
dss

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No