

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

**CWP No.19552 of 2018
Date of Decision:08.08.2018**

Sunil and another ...Petitioners
Versus
Superintendent Canal Officer and others ...Respondents

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present: Mr. R.N. Lohan, Advocate
for the petitioners.

G.S. SANDHAWALIA, J. (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking quashing of the orders dated 29.06.2018 (Annexure P-4), 11.04.2018 (Annexure P-3) and 19.01.2018 (Annexure P-2), respectively passed by the authorities below under the Haryana Canal & Drainage Act, 1974 (for short 'the Act').

The authorities have found on the application of the private respondents that there was a watercourse running from last 20 years which had been demolished. The inspection was made on 12.01.2018 in the presence of both the parties and the said fact was found to be correct. It has been further noticed that it was the watercourse which had been lined by the CAD authorities and therefore, it had fallen in the ambit of watercourse 'by prescription of law'. In such circumstances, the Sub Divisional Canal Officer, Narwana directed to bring the demolished watercourse to its original condition from point A to B in the length of four killas for a unlimited period.

The Divisional Canal Officer, Narwana by upholding vide

order dated 11.04.2018 (Annexure P-3) also went through the record and came to the conclusion that the order for restoration of watercourse was correct while rejecting the appeal and further upheld the order. The said order further has also been upheld by the Superintending Canal Officer, Kaithal vide order dated 29.06.2018 (Annexure P-4). It was further held that the watercourse falls within the ambit of 2(15) of the Act, therefore, the appeal of the petitioner has been dismissed. The Section 2(15) reads as under:

2(15). “watercourse” means any channel including all its subsidiary works which is supplied with water from a canal, but not maintained at the cost of the State Government, and is sanctioned under this Act or is in existence under an agreement or by prescription.

The findings which have been recorded are on the factual aspect and the private respondents were justified for redressal of the grievances by approaching the authorities as their precious rights for irrigation of the land owned by them had been adversely effected by the illegal action of the petitioners. The orders thus which have been passed under Section 24 of the Act for restoration of the demolished watercourse do not suffer from any infirmity which would convince this Court to interfere.

Resultantly, the present writ petition is dismissed in limine.

08.08.2018
pvd

(G.S. SANDHAWALIA)
JUDGE

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