

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

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Civil Writ Petition No.37622 of 2018
Date of Decision: December 19th, 2018

Charan Kaur

...Petitioner

Versus

Superintending Canal Officer, Sirhind Canal Circle, Ludhiana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Ramandeep Singh Pandher, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 13.10.2004 (Annexure P-1) passed by the Divisional Canal Officer, Bathinda Canal Division, Bathinda, and order dated 15.01.2009 (Annexure P-2) passed by the Superintending Canal Officer, Sirhind Canal Circle, Ludhiana, whereby the demolished watercourse from point 'A' to 'B' has been restored at Field No.130//22, 151//2/1.

2. It is the contention of learned counsel for the petitioner that there is no water channel in existence, which could have been restored on the western side of the said khasra number, which has been ordered to be restored. His further contention is that there are constructed houses in the channel which is shown to have been now sought to be revived. In support of this contention, he places reliance upon the photographs, which have been placed on record. Further submission which has been made by the counsel for the petitioner is that the Divisional Canal Officer has not taken into consideration the fact that the land of Pritam Singh and Kirpal Singh-respondents 3 and 5 respectively is not even in existence in the *aks shajra* which has been prepared. However, he concedes that the land of

respondents 3 and 5 is further downstream. He, thus, contends that the impugned orders deserve to be set aside.

3. I have considered the submissions made by learned counsel for the petitioner and with his assistance, have gone through the impugned orders but do not find myself in agreement with the said contentions.

4. There is nothing on the record to indicate that the houses were in existence prior to demolition of the khal. Land of respondents 3 and 5 admittedly is further down below as per the *aks shajra* and with the demolition of the khal from point 'A' to 'B', water to their land would be obviously effected as there is a categoric finding returned by the Divisional Canal Officer that beyond points 'B', the khal is in existence. The demolished area is from point 'A' to 'B', which has been ordered to be restored.

5. In view of the above, there being no illegality in the orders passed by the authorities below, this Court would not exercise its extra ordinary writ jurisdiction.

6. At this stage, learned counsel for the petitioner states that there is probably a notification issued by the Government of Punjab, which encourages underground water pipes for irrigation purposes. He states that the petitioner would move a representation to the competent authority in this regard so that the said process could be initiated.

7. It is for the petitioner to decide in this regard and take appropriate steps as permissible in law.

8. The writ petition stands disposed of with above observations.

December 19th, 2018

Puneet

AUGUSTINE GEORGE MASI(H)

JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

No