

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

107

Civil Writ Petition No.30630 of 2018

Date of Decision: October 30th, 2019

Jaipal and another

...Petitioners

Versus

Superintending Canal Officer, Bhakra Water Services Circle, Sirsa
and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Ms. Rupinder K. Thind, Advocate
for the petitioners.

AUGUSTINE GEORGE MASIH, J.

In this writ petition, challenge is to the order dated 25.01.2018 (Annexure P-9) passed by the Sub Divisional Canal Officer, Bani Water Services Sub Division Sirsa, whereby application for restoration of a dismantled watercourse AB permanently has been allowed, appeal against which preferred by the petitioners has been dismissed by the Divisional Canal Officer, Sirsa Water Services Division, Sirsa, vide order dated 29.05.2018 (Annexure P-10) and the order dated 01.10.2018 (Annexure P-11) vide which the revision petition filed before the Superintending Canal Officer, Bhakra Water Services Circle, Sirsa, has also been dismissed.

2. It is the contention of learned counsel for the petitioners that the authorities below have not taken into consideration the fact that the land of the private respondents has been duly irrigated through an alternative watercourse. He asserts that there was in fact no watercourse existing at the site, what to say of running and, therefore, dismantling of the same does not arise. Assertion has also been made that the authorities have failed to take into consideration the fact that there is no sanctioned watercourse and,

therefore, the restoration of the same could not have been ordered. It is further asserted that the *pucca* watercourse is already provided for irrigating the land of the private respondents and, therefore, the watercourse which is being sought to be asserted to have been dismantled and that too *kacha* was of no use. Prayer has thus been made for setting aside the impugned orders.

3. I have considered the submissions made by learned counsel for the petitioners and with her assistance, have gone through the records of the case including the site plan and the impugned orders but do not find myself in agreement with the contentions of learned counsel for the petitioners.

4. Perusal of the site plan as well as the impugned orders would show that from the certified site plan and the copy of the *warabandi* dated 28.10.1999 along with the statistic of the three years irrigation from Rabi 2016-2017 relating to the records of canal khasra girdawari, it stands established that the watercourse was in existence at AB Square No.36 and Rectangle No.6 prior to dismantling in the western line as per map dated 20.10.1999. The private respondents were irrigating their land from Point AB. Once the documentary evidence and the records substantiated the oral submission of the claimant/applicant/private respondents, the assertion of the counsel for the petitioners cannot be accepted. Merely because there existed another watercourse would not entitle the petitioners to dismantle a watercourse, which has been running at the site since the year 1999, which has further been substantiated from the canal khasra girdwari for the three years irrigation from Rabi 2016-2017.

5. In view of the above, it cannot be said that the orders which have been passed by the canal authorities are without any basis or based upon no evidence on record.

6. There is no illegality in the orders passed by the canal authorities which would call for interference by this Court in exercise of its extraordinary writ jurisdiction.

7. Finding no merit in the present writ petition, the same stands dismissed.

October 30th, 2019

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No