

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

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**CIVIL WRIT PETITION NO.987 OF 2019
DATE OF DECISION: JANUARY 16, 2019**

Kulwant Singh

.....Petitioner

VERSUS

Superintending Canal Officer, Ludhiana and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Robin Dutt, Advocate for
Ms. Manmohan Kaur, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this writ petition is to the order dated 24.05.2017 (Annexure P-2) passed by the Divisional Canal Officer, appeal against which preferred by the petitioner has been dismissed by the Superintending Canal Officer vide order dated 09.11.2017 (Annexure P-3), ordering restoration of the water course as per the prayer made by respondent Nos.3 to 7.

It is the contention of learned counsel for the petitioner that the water course, which has been ordered to be restored, was not a sanctioned one. He contends that the water course, which was running, was actually not demolished by the petitioner but had been demolished by respondent Nos.3 to 7 themselves and now vide the impugned orders restoration has been sought and granted, which, he contends is without taking into consideration

the fact that illegal water course, even if running, cannot be ordered to be restored. He, thus, contends that the impugned orders deserve to be set-aside.

I have considered the submissions made by learned counsel for the petitioner and with his assistance have gone through the records of the case.

The impugned orders clearly establish and also not in dispute that the water course was in existence. The authorities below have only ordered restoration of the water course. The plea with regard to there being an illegal water course has never been raised before the authorities below. Mere pendency of the partition proceedings, which have resulted in the pendency of R.S.A. No.85 of 1992 (Jeet Singh Vs. Kulwant Singh), would not in any manner affect the orders which have been passed by the Divisional Canal Officer and the Superintending Canal Officer, respondent Nos.2 and 1 respectively. The orders as passed by the Canal authorities, which have been impugned herein, being passed upon the factual position as it existed on the ground and there being no illegality therein, no interference in the same is called for.

The writ petition, being devoid of merit, stands dismissed.

January 16, 2019
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No