

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

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Civil Writ Petition No.31476 of 2018

Date of Decision: February 8th, 2019

Ram Kala and another

...Petitioners

Versus

Birbal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Surender Dhull, Advocate
for the petitioners.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioners have approached this Court impugning the order dated 23.10.2018 (Annexure P-2) passed by the Superintending Canal Officer, Kaithal, whereby the appeal preferred by the petitioners against the order dated 25.06.2018 (Annexure P-3) passed by the Divisional Canal Officer, has been dismissed.

2. It is the contention of learned counsel for the petitioners that the lined watercourse which has been constructed by the department is not in consonance with the watercourse which was earmarked during the consolidation. He contends that the watercourse has been wrongly constructed through the land of the petitioners and, therefore, the petitioners had the right to demolish the same and have accordingly done so. He contends that the orders as passed by the Divisional Canal Officer as also the Superintending Canal Officer, Kaithal, cannot sustain and deserve to be set aside.

3. I have considered the submissions made by learned counsel for the petitioners and with his assistance, have gone through the records of the case as well as the impugned orders.

4. Perusal of the impugned orders would indicate that the

shareholders of the outlets i.e. RD 99000-R Rajound Distributary in the year 2010. Petitioner No.2-Karambir was a member of the Water User Association. The watercourse was running at the site. At the time of construction and the alignment of the watercourse in dispute, no objection was raised by the petitioners. The said watercourse, after construction and alignment, had been running at the spot until its demolition by the petitioners. With the dismantling of the lined watercourse by the petitioners, land of about 50 acres has been deprived of canal irrigation. The action of the petitioners in dismantling a lined watercourse, especially when no objection has been raised by the petitioners at the time of construction and alignment thereof, clearly culls out that they have taken the law in their own hands. In case the petitioners had any grievance with regard to the alignment of the watercourse or they intended or wanted the change thereof, remedy was available to them, as has been suggested by the Superintending Canal Officer in his order dated 23.10.2018.

5. Counsel for the petitioners has not been able to make a statement to the effect that the petitioners had ever approached the authorities with the grievance with regard to the alignment of the watercourse. Having not even approached the authorities with a grievance with regard to the alignment of the watercourse or construction of the watercourse at the wrong place, taking law in their own hands by the petitioners, cannot be acceptable, especially when the public interest requires the watercourse to be running at the spot. No merit, therefore, is found in the present writ petition and the same deserves to be dismissed.

6. Ordered accordingly.

February 8th, 2019
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE