

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

Sr. No.119

CWP No.1248 of 2020

DATE OF DECISION: February 27, 2020

JAGDISH @ JAGDISH KUMAR

..PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. R.S. Mamli, Advocate, for the petitioner.

SUDHIR MITTAL, J. (ORAL)

Respondent No.5 filed an application for restoration of a demolished watercourse. The application was allowed by the Divisional Canal Officer and appeal filed by the petitioner before the Superintending Canal Officer has been dismissed. Revision before the Chief Canal Officer has also failed.

2. Learned counsel for the petitioner submits that the land of respondent No.5 is being irrigated through another source. Apart from that source of irrigation, she was also irrigating her land through a watercourse passing through a kacha rasta. The said kacha rasta is now being made pucca and thus, she is not entitled to ask for a watercourse through the land of the petitioner.

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3. Reliance has also been placed on report dated 06.05.2018 of the Ziledar to contend that no watercourse was in existence.

4. Existence of an alternative source of irrigation can never be a ground to challenge an order of restoration of a demolished watercourse. If a watercourse was in existence and the same has been demolished, the party demolishing the said watercourse is bound in law to restore the same. In the present case, all the authorities below have found that the petitioner has demolished an existing watercourse. The report dated 06.05.2018 of the Ziledar also points out that a watercourse was in existence and that the same was adjacent to the kacha rasta. Thus, there is no material on record to support the contention of learned counsel for the petitioner that no watercourse was in existence.

5. The next submission of learned counsel for the petitioner that on account of the kacha rasta being made pucca, respondent No.5 cannot be permitted to seek a watercourse through the land of the petitioner, also cannot be accepted. This is not a case of seeking a fresh watercourse. The grievance of respondent No.5 was that an existing watercourse has been demolished and the petitioner has failed to show that the said finding is incorrect or illegal.

There is no merit in the writ petition and the same is dismissed.

February 27, 2020

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No