

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

CWP-20160-2021

Date of Decision:04.10.2021

Kamaldeep and another

....Petitioners

VS

**Superintending Canal Officer, Bhakra Water Services, Circle Kaithal,
District Kaithal and others**

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Sandeep Berwal, Advocate
for the petitioners

SUDHIR MITTAL, J. (Oral)

The petitioners are aggrieved because on an application filed by respondents No. 4 and 5, the Divisional Canal Officer has directed restoration of a demolished water course. Appeal of the petitioner has failed.

Learned counsel for the petitioners submits that from the application filed by respondents No. 4 and 5 it is evident that the said water course was a 'kacha water course'. Thus, it falls within the definition of temporary water course given in Section 2(12) of the Haryana Canal and Drainage Act, 1974 (hereinafter referred to as 'the Act') and not under Section 2(15) thereof. The authorities below were in error in concluding to the contrary. The water course could have been restored only for a maximum period of one year.

Perusal of the impugned order shows that the authorities have returned a finding of fact that the water course was in existence since 1974. The application for restoration was made on 25.06.2020. Thus, the water course had been in existence for 46 years atleast before it was demolished. Even though it may be a 'kacha water course', it would be covered by the definition of water course

contained in Section 2(15) of the Act, as the said definition includes a water course in existence under an agreement or by prescription. The length of time for which this water course running shows that the petitioners had agreed to the same. Consequently, the authorities below have not committed any error.

The writ petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

04.10.2021
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Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No