

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

Sr. No.113

Civil Writ Petition No.19488 of 2022

Date of Decision : September 01, 2022

Lachhman Singh

...Petitioner

Versus

Superintending Canal Officer, Patiala Circle, Irrigation Branch, Patiala and
others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Vijay Sharma, Advocate, for the petitioner.

SUDHIR MITTAL, J. (ORAL)

The petitioner had applied for connection of his nakka with an underground pipeline, whereafter, one karam wide watercourse was sanctioned on payment basis. This order has been set aside in an appeal filed by respondent No.5 and the matter has been remanded for a fresh decision vide order dated 11.05.2022 passed by the Superintending Canal Officer.

Learned counsel for the petitioner has submitted that order of remand is meaningless as a finding of fact has been returned that the pipeline installed in the fields of respondent No.5 was in lieu of a private watercourse. This finding is contrary to the record. The Divisional Canal Officer would be bound by the said finding and would not grant any relief to the petitioner and thus, the order of remand deserves to be set aside.

Primarily, vide the impugned order, order approving a watercourse on payment basis has been held to be bad in law on the ground that a scheme was not framed in accordance with the statute and no watercourse can be created without a scheme being prepared and published in accordance with law. Thus, the order of remand is justified. Any observations made especially regarding the nature of the underground pipeline, would not bind the Divisional Canal Officer who would decide the case afresh without being influenced by any findings of the Superintending Canal Officer. After remand, the Divisional Canal Officer is directed to decide the case within six months from the date of receipt of a certified copy of this order.

With the aforementioned observations, the writ petition is disposed of.

September 01, 2022
Ankur

(SUDHIR MITTAL)
JUDGE

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