

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

Sr. No.138

CWP-23865-2022 (O&M)
Date of decision : 17.10.2022

JASBIR

..... Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Ajit Sihag, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

The fifth respondent filed an application for restoration of a demolished water course. The same was allowed by the Sub Divisional Canal Officer and the water course was restored for a period of six months. Appeal of the fifth respondent was accepted by the Divisional Canal Officer and the water course was ordered to be restored on permanent basis. The appeal of the petitioner was dismissed. Aggrieved, the petitioner preferred a revision petition, but without success. Thus, the present writ petition has been filed.

Learned counsel for the petitioner has relied upon a writing dated 3.8.2019 (Annexure P-6) to submit that the water course demolished by the petitioner was in fact a temporary arrangement between the family of the petitioner and the family of respondent No.5 as one Ishwar son of Devi Singh had demolished the water course supplying water to the fields of respondent No.5. The arrangement was only for the period the fifth respondent pursued legal proceedings for getting the said water course restored. Thus, the impugned orders are not sustainable in law. It has also been argued that the location of the water course has been changed by the Canal Authorities from

West to East as is evident from the report of the Ziledar as well as the site plan (Annexure P-1). On this ground also, the impugned orders are not sustainable in law.

A perusal of the order passed by the Sub Divisional Canal Officer as well as the grounds of appeal taken before the Divisional Canal Officer shows that no reliance, whatsoever, has been placed upon writing dated 3.8.2019. Thus, the said writing cannot be relied upon in the writ petition. Assuming, that the said writing is factually correct, it is an admission on the part of the petitioner of having provided a water course to the fifth respondent. Thus, the petitioner is estopped from challenging the legality/validity of the impugned orders. For the same reason, the petitioner cannot argue that the alignment/location of the water course has been changed. Admission of existence of a water course and its demolition by the petitioner is the best evidence. Thus, no fault can be found in the impugned orders.

The writ petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

17.10.2022

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No