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

LPA-1015-2022

Date of Decision : 15.11.2022

Jasbir

..... Appellant

Versus

State of Haryana and others

..... Respondents

**CORAM : HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present : Mr. Ajit Sihag, Advocate
for the appellant.

VIKRAM AGGARWAL, J

The present Letters Patent Appeal is directed against the judgment dated 17.10.2022, passed by the learned Single Bench vide which the writ petition filed by the appellant was dismissed.

The dispute between the appellant and respondent No.5 pertains to a water course which, as per respondent No.5, was being used for irrigating their land and the same had been demolished by appellant Jasbir and his father Des Raj. An application dated 16.05.2019 (Annexure P-2 with the writ petition) (reference to annexures hereinafter shall refer to annexures with the writ petition) was moved by respondent No.5 for restoration of the same. It was the case of respondent No.5 that this water course had been in operation for the last 40 years but had been demolished by Des Raj and his son Jasbir. The Zildar of the area visited the site on 02.07.2019 and gave his report on 05.07.2019 (Annexure P-3) wherein he

stated that water course of length 6½ karam (approximately 12 feet) had been demolished and that fresh signs/remains of demolition were found at the spot. On the recommendation of the Zildar, the matter was taken up by respondent No.4 who also inspected the site on 04.09.2020 and found the signs/remains of the dismantled water course. He also found that irrigation had been stopped. He ordered restoration of the water course in rect. Killa No.12/12-19-22 eastern line for a period of six months vide order dated 08.09.2020 (Annexure P-8). The appellant filed an appeal against the said order whereas respondent No.5 filed a cross appeal. The appellant wanted setting aside of the said order passed by respondent No.4 whereas respondent No.5 wanted the restoration to be made permanent.

Vide order dated 09.03.2021, the appeal of the appellant was rejected and the cross appeal filed by respondent No.5 was allowed. It was ordered that the water course be restored to its original condition permanently.

A revision petition was preferred by the appellant against the orders dated 08.09.2020 and 09.03.2021, which was also rejected by respondent No.2 by passing a speaking order dated 12.05.2022 (Annexure P-10).

Aggrieved by these orders, a writ petition was filed which was dismissed leading to the filing of the present appeal.

Learned counsel for the appellant has contended that the learned Single Bench has erred in not placing reliance upon the compromise arrived at between the parties on 03.08.2019 which had been reduced into writing and was produced on record as Annexure P-6. It has been submitted that respondent No.5 and his three brothers had undertaken that they will

irrigate their land through the water channel which they had taken from Des Raj and Om Parkash and that they will withdraw the case filed against Dharambir and Om Parkash. It has also been submitted that even the learned Single Bench did not take note of this compromise and gravely erred in dismissing the writ petition filed by the appellant. Learned counsel has contended that now the water course has been restored through the land of the appellant without the payment of any compensation which has greatly prejudiced his rights.

Having heard learned counsel for the appellant and having perused the record, we are unable to agree with the submissions made by learned counsel for the appellant. The Zileadar visited the spot on 02.07.2019 and found that the water course around 12 feet length had been demolished. In his report Annexure P-3 (Vernacular version), the Zileadar clearly states that on the middle line of Murabba No.12, Killa No.12 and 13 on the Northern side 6½ karam, water course had been demolished and that signs of fresh demolition were found at the spot. He recommended its restoration. He also produced photographs of the spot which is so mentioned in his report. The statement of respondent No.5 which is on record is also to this effect. In the said statement, respondent No.5 also stated that this water course was in existence for the last 30/40 years. On the basis of the recommendation, respondent No.4 ordered restoration for a period of 06 months which was made permanent by respondent No.3 and finally the matter was put at rest by respondent No.2 vide order dated 12.05.2022 (Annexure P-10). The alleged compromise dated 03.08.2019 (Annexure P-6) does not help the appellant as it talks about some suit filed by Ishwar Singh (respondent No.5) and his brothers against Dharambir and

Om Parkash which is not the subject matter of the present case. The learned Single Bench also rightly observed that assuming the compromise is relied upon, it does admit that the water course had been provided to respondent No.5 and from the reports of the authorities, it stands proved that the same had been demolished. Right from the lowest officer of the Canal Department to the highest authority, it was categorically held that there was a water course which had been demolished by the appellant side. The alignment also cannot be said to have been altered because the spot was examined by the authorities wherein signs of fresh demolition were found and restoration was ordered after examining the spot as also the record.

In view of the aforesaid, we do not find any reason, whatsoever, to interfere in the judgment rendered by the learned Single Bench. The present appeal, being devoid of merit is, therefore, dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

15.11.2022
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No