

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

112

CWP No. 26324 of 2022

Date of Decision:- 18.11.2022

GURJANT SINGH AND ANOTHER

....Petitioners

vs.

SUPERINTENDING CANAL OFFICER AND OTHERS

....Respondents

BEFORE :- HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. O.P. Kamboj, Advocate,
for the petitioners.

Sudhir Mittal, J. (Oral)

The private respondents had filed an application for restoration of a demolished water course. The same has been allowed and appeal there-against has been dismissed. Thus, the present writ petition has been filed.

Learned counsel for the petitioners submits that the finding that a water course was in existence is erroneous. In fact, there was no water course in existence. Even if a water course existed, it flowed through the land of the petitioner and he was entitled to demolish it. Thus, the authorities below were not justified in allowing the petition. Reliance is placed upon *Ram Kumar vs. Bhim Singh, 1984 PLJ 129*.

A perusal of the order of the Divisional Canal Officer shows that a finding has been returned that the water course in dispute had been flowing for the last 50 years. The spot inspection report shows that a water course had been in existence and had been demolished. Learned counsel for the petitioner has been unable to displace these findings of fact. The reliance upon *Ram Kumar (supra)* is misconceived because in the said case the parties were in agreement that the water course in dispute was neither a sanctioned water course nor was the same in

existence under an agreement or by way of easement. Under the circumstances, it was held that the person through whose land the water course was flowing had the right to demolish the same. This is not the situation in the instant case. A finding of fact has been returned that the water course was in existence for the last 50 years. Thus, easementary right in favour of the respondent stood established.

The writ petition has no merit and is dismissed.

November 18, 2022	(SUDHIR MITTAL)
poonam	JUDGE

Whether Speaking/Reasoned	Yes
----------------------------------	------------

Whether Reportable	No
---------------------------	-----------