

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

CWP No.13684 of 2023

Date of Decision: 24.11.2023

Angrez Singh

..... Petitioner

Versus

**Superintendent Canal Officer, Ferozepur Canal Circle,
Ferozepur and others**

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vinod Khunger, Advocate
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

Mr. Kamal Narula, Advocate
for respondents No.3 and 4.

RAJESH BHARDWAJ, J.

Present writ petition has been filed for quashing the impugned order dated 10.02.2023 passed by Superintending Canal Officer, Ferozepur (Annexure P-8), order dated 07.12.2022 passed by Divisional Canal Officer, Ferozepur (Annexure P-7) and for restoring the order dated 28.07.2021 passed by Divisional Canal Officer, Ferozepur (Annexure P-5). Further prayer has been made for staying the operation of impugned order dated 10.02.2023 (Annexure P-8) passed by the Superintending Canal Officer, Ferozepur.

Adumbrated facts of the case are that respondents No.3 & 4 filed an application on 03.06.2021 before the Divisional Canal Officer, Ferozepur for the sanction of water course A, B, C, which was dismantled by the petitioner, namely, Angrez Singh and others. The Zileदार, vide his inquiry report dated 21.06.2021 found that the underground pipeline from point A to D was working and water course from Point D to E and Point E to F was there. Thus, he recommended for restoration of the water course to the Sub Divisional Officer, vide his report dated 05.07.2021. The Divisional Canal Officer, on considering the reports, found the application filed by respondents No.3 and 4 not acceptable and thus, rejected the same vide his order dated 28.07.2021. Aggrieved by the same, respondents No.3 and 4 filed an appeal before the Superintending Canal Officer, Ferozepur and the same was accepted vide order dated 15.03.2022 by remanding the case to the Divisional Canal Officer with a direction to decide the same afresh. After remand of the case, the learned Divisional Canal Officer reheard the same and accepted the demand of respondents No.3 and 4 vide his order dated 11.07.2022. Aggrieved by the same, the petitioner filed an appeal before the Superintending Canal Officer, Ferozepur against the restoration of the water course and the learned Superintending Canal Officer again remanded the case for decision afresh by holding that two systems i.e. one through installation of pipeline and other by water course, cannot run simultaneously. After the remand by the Superintending Canal officer, the learned Divisional Canal Officer accepted the demand of respondents No.3 and 4 and restored the water course A, B and C vide his

order dated 07.12.2022. The learned Superintending Canal Officer restored the water course A, B and C through underground pipeline at the expenses of respondents No.3 and 4. Hence aggrieved by the same, the petitioner is before this Court by way of filing the present writ petition.

The precise submission made by learned counsel for the petitioner is that the water course A, B and C is restored by the learned Superintending Canal Officer is against the evidence on record as this water course has been restored from the land of the petitioner.

Faced with the argument raised by learned counsel for the petitioner, this Court had directed the State to file the reply and summoned the Sub Divisional Officer in the Court.

Mr. Pawan Bishnoi, Sub Divisional Officer is present in person in Court today and has explained the same as per the record of the case. He was directed to file an affidavit which has already been filed as mentioned in the order dated 06.11.2023.

Learned counsel for the petitioner reiterated his specific argument that the water course has been restored through underground pipeline from the land of the petitioner.

However, learned State counsel on instructions from Mr. Pawan Bishnoi, SDO, has vehemently opposed the same. She has brought the attention of this Court to the affidavit filed wherein it has been submitted that on the direction of this Court, the Officer along with the police party reached the spot where the water course was to be restored. It was found that at the site, where the water course was dismantled by the

petitioner, the petitioner laid down the pipeline in place of water course without taking any approval from the Canal Department. It was found that as per site plan/Sizra plan, the water course and its bed level was higher than the land of respondent No.3 and others, and on account of this, proper irrigation could not be done. The respondent authority rectified the same so as to function a smooth flow of irrigation water. It has been submitted in the affidavit that during the process of laying down of 60 feet pipeline, neither the land of the petitioner has been used nor his land has been damaged or disturbed in any manner whatsoever. It has been specifically submitted that the pipeline has been embedded in the Government land. Thus, it is submitted that the submissions made by learned counsel for the petitioner are without any basis and thus, the present petition deserves to be dismissed.

I have heard learned counsel for the parties and perused the material on record.

After hearing learned counsel for the parties and perusing the record, it is apparent that as the water course was damaged, the same was restored by the respondents authorities. However, on the submissions made by learned counsel for the petitioner, the Officer was directed to be present in the Court and file an affidavit after inspection of the site. The same has been placed on record. The Officer has submitted that the underground pipeline was embedded in the Government land and a smooth flow of the water for irrigation has been ensured. Thus, the submissions made by learned counsel for the petitioners are totally misconceived.

Hence, this Court does not find any merits in the present petition and the same being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

24.11.2023
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No