

**112 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CWP-15245-2023****Date of decision : 20.07.2023****Krishan Kumar****.....Petitioner****versus****State of Haryana and others****..... Respondents****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********

Present :- Mr. B.S. Beniwal, Advocate
for the petitioner.

*********RAJESH BHARDWAJ, J.**

Prayer in the present petition is for issuance of writ in the nature of certiorari for quashing the impugned order dated 28.04.2023 (Annexure P-6) passed by respondent No.3 vide which the demolished watercourse, in field No.52//3/3 and 4 has been restored in the shape of an underground pipeline which is to be embedded 03 feet below the natural surface level at the costs of the petitioner.

It has been contended by counsel for the petitioner that he filed an application on 05.06.2019 before respondent No.5 for restoration of the watercourse at Moga No.22825-R praying that his watercourse was demolished by respondent No.6 and he submitted that after the site was inspected by Zileadar, the Court has ordered for installation of underground pipeline on the middle line of land bearing Murba No.52//3/3-4 and 7/2-8 vide order dated 20.09.2019. The petitioner assailed the same by way of filing the appeal. He has submitted that as per Section 24 of the Haryana Canal and Drainage Act, 1974 (for short 'the

Act'), the Sub Division Canal Officer has the power to restore the demolished watercourse to its original condition. Resultantly, on hearing the appeal, the case was remanded back to the Sub Divisional Canal Officer, Uklana vide order dated 16.06.2022. He has submitted on remand, Sub Divisional Canal Officer decided the case afresh vide order dated 20.09.2019 and it was observed that the demand of the applicant was genuine one but this order was assailed by respondent No.6 before the Divisional Canal Officer, Tohana. He has further submitted that learned Divisional Canal Officer has rejected the appeal filed by respondent No.6 vide his order dated 09.11.2022. He submits that this order was further assailed by respondent No.6 by way of filing the revision petition before the Superintending Canal Officer, Bhakra and learned Superintending Canal Officer partly allowed the same which is totally unsustainable in the eyes of law. He submits that respondent No.3 had wrongly decided the case by observing that it was an amicable solution. He has further submitted that he had no jurisdiction to entertain the appeal against the order passed by respondent No.4 under Section 24 of the Act and the same deserves to be *set aside*.

This Court has heard counsel for the petitioner and perused the record. It is apparent that *inter se* dispute between two sides pertains to the restoration of the water channel for better irrigation of the land of the parties. It is evident from the record that petitioner had moved application dated 05.06.2019 for restoration of the water course. After the decision of the first Court, the case was remanded back by the Appellate Court for decision afresh to be decided by giving opportunity to both the sides as per Section 24 of the Act. As per the warabandi record, the

running of the water channel was established from last 20 years and thus, the Divisional Canal Officer, did not find any illegality in the impugned order dated 02.08.2022 and hence, the appeal was rejected vide order dated 09.11.2022. Thereafter, the revision was filed by Balwant Singh, respondent No.6 and both the parties were heard and record was also appreciated. As per observations made, it is apparent that the record was appreciated and the site was also inspected by the authorities. Record of the Warabandi was also perused. On appreciation of the record and the inspection of the site, the existence of the watercourse was found from last 35 years along with path of the land of respondent No.6. Thus, in the overall facts and circumstances of the case, the Revisional Court partly accepted the revision petition with the modification for the restored water channel would be by way of underground pipeline to be embedded 03 feet below the natural surface level. In view of the record available, the existence of the water channel is duly established which was since long, however, it was found to have been demolished. Thus, the authorities restored the same by way of making it functional through the underground pipeline. On perusal of the same, this Court has not find any perversity in the impugned order dated 28.04.2023 (Annexure P-6) and thus, petition being devoid of any merits is hereby dismissed.

20.07.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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