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

CWP-26044-2018

Date of decision : 22.12.2023

Rajbir

.....Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Yashdeep Nain, Advocate
for the petitioner.

Mr. Rajneesh Chadwal, A.A.G., Haryana.

Mr. Padamkant Dwivedi, Advocate
for respondents No.2 to 5.

Mr. Parveen Hans, Advocate
for respondents No.6 to 8.

RAJESH BHARDWAJ, J. (Oral)

Present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of writ in the nature of mandamus, for directing the respondents to restore the dismantled watercourse which had been dismantled despite the order of Chief Canal Officer, CADA, Haryana and registration of FIR on the complaint of respondent No.4.

It has been contended by the counsel for the petitioner that the Khal in dispute had been demolished by respondents No.6 to 8. He has submitted that he filed application for restoration of the same before the S.D.C.O. which was accepted vide order dated 31.08.2016 and the appeal filed against the same by the respondents was also dismissed vide

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order dated 17.08.2017 (Annexure P-6). He has submitted that thereafter, they approached Chief Canal Officer, Haryana by filing appeal which was dismissed vide order dated 21.02.2018 (Annexure P-7). It is submitted that thereafter the respondents filed a suit wherein an application filed under order VII Rule 11 read with Section 151 C.P.C. was allowed and the plaint was rejected vide order dated 06.10.2023. He has submitted that despite all the orders against the respondents, the watercourse has not been restored till date.

Mr. Ajay Sihag, S.D.C.O., Barwala is present in person in the Court and has submitted that he has already passed the order for restoration of the water course and the appeal against the same was also dismissed. He submits that there was status quo granted by the Civil Court so the order could not be implemented. However, as the Civil Court has now rejected the plaint of the respondents, there is no order restraining the respondents from restoring the water course. He submits that CADA is the competent authority for carrying out the necessary restoration.

Mr. Dharamvir Singh, S.C.O., CADA, Barwala, is also present in Court and both the officers fairly submit that they would execute the work for the restoration of the demolished khal within a period of 8 weeks from today. Let them do so as per their submission.

In view of the above, the present petition is disposed of.

(RAJESH BHARDWAJ)
JUDGE

22.12.2023

ps-I

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