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

CWP No.17536 of 2023

Date of decision : 11.08.2023

Rohtash

..... Petitioner

Versus

**Superintending Canal Officer, Yamuna Water Services Circle,
Jind and others**

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Ajay Kumar Kansal, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

Present writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the impugned order dated 13.06.2023 (Annexure P-9), order dated 21.02.2023 (Annexure P-8) and order dated 20.10.2022 (Annexure P-7) passed by the official respondents, being illegal, arbitrary and having been passed in violation of factual position on the spot and in violation of settled principles of law.

It has been contended by learned counsel for the petitioner that petitioner is the co-sharer of Khewat No.124, Khatoni No.161, total area 162-17 Kanal and cultivating his land through water course passing through Rect. No.14. He submits that respondent No.4 and other co-sharers were getting

water from existing water course passing through Rect. No.14 without any reason and with the intention to grab the land of petitioner, they filed a false and frivolous application before official respondent No.3. He submits that the Zaildar had filed a false report regarding the existence of Khaal in dispute. He submits that respondent No.3 without taking into consideration the factual position on the spot and the revenue record, has illegally directed the restoration of water course. He submits that petitioner filed an appeal before respondent No.2, who came to conclusion that there was no consolidation water course marked and the matter was rightly remanded vide order dated 02.08.2022 with a direction to verify and reinvestigate the case. He submits that after the remand of case, respondent No.3 vide order dated 20.10.2022 again ordered for restoration of the alleged dismantled water course by ignoring the revenue record. He submits that aggrieved by the same, petitioner approached before respondent No.2 by filing an appeal but respondent No.2 without appreciating the revenue record and the submissions made, illegally dismissed the appeal vide impugned order dated 21.02.2023. Aggrieved by the same, petitioner filed the revision petition before respondent No.1, who again has fallen in error in not appreciating the submissions of petitioner and the revenue record and thus, rejected the revision only on the ground that the restoration of khaal is for better irrigation. It has been submitted that the order passed by the respondents-authorities are totally null and void being against the settled proposition of law and thus, deserve to be set aside.

Notice of motion.

On asking of the Court, Ms. Upasna Dhawan, AAG, Haryana appears and accepts notice on behalf of respondents No.1 to 3-State.

After hearing learned counsel for both the parties and perusing the material on record, it is apparent that application was filed by respondent No.4 for restoration of the Khaal. It has been submitted that water course along at Murabba No.29, Killa No.4-7-14 had been blocked by the farmers. It has further pleaded that the same was running since beginning since 70 years and the same be restored. Acting on the application, site was inspected whereupon it was found that Rohtash, son of Baru Ram had closed the khaal at Killa No.14/25, due to which irrigation to the fields of applicant was interrupted. After hearing the parties and inspecting the site, the Zaildar, Jind recorded that Khaal be opened expeditiously so that the applicants may properly irrigate their fields. Learned Sub Divisional Canal Officer, heard the parties and appreciated the revenue record. It was observed that no other water course except the dismantled water course was existed for irrigation of the respondents and thus, demand for restoration was found to be valid and hence, the same was ordered to be restored. The appeal was filed by the petitioner before the Divisional Canal Officer and the case was re-appreciated. Vide order dated 02.08.2022, it was remanded back for decision afresh. On remand, record of the case was duly perused and parties were heard. Khaka plan and other relevant record were examined and revenue record was verified. It was found that dismantled water course existed since consolidation and there was no other water course found except the dismantled water course. Thus, the dismantled water course was ordered to be restored vide order dated 20.10.2022. Aggrieved by the same, the

petitioner filed the revision before the Divisional Canal Officer, Jind. However, finding no infirmity in the impugned order, the same was dismissed vide order dated 21.02.2023. Petitioner further challenged the same by way of filing the revision before the Superintending Canal Officer and the case was again heard and the revenue record was perused. The findings arrived at by the Subordinate authorities were found to be as per the record, the khaal was found to be existing since consolidation and in the overall interest of the parties, it was found that restoration of the khaal would be for the better irrigation, thus, the revision filed was also dismissed. A Co-ordinate Bench of this Court in “*Satinder Pal Singh vs. State of Punjab and others*”, 2009 SCC Online P&H 11188, has held that the findings of the authorities below cannot be interfered unless perverse, it is settled law that this Court while exercising the jurisdiction under Article 226 cannot sit as a court of appeal over the findings recorded by the authorities below.

Accordingly, from the submissions made by learned counsel for both the parties and the record perused, this Court does not find any perversity in the impugned orders passed by the authorities. There are concurrent findings on the factual aspect by all the authorities below and hence, this petition being devoid of any merit, is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

11.08.2023

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