

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

CWP-24210-2023

Date of Decision: 30.10.2023

Gurjant Singh

..... Petitioner

Versus

Superintending Canal Officer and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. H.S.Sehgal, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing the impugned order dated 23.09.2022 (Annexure P-6) passed by respondent No.1 and impugned order dated 31.08.2018 (Annexure P-4) passed by respondent No.2, being totally wrong, illegal and against the provisions of the Northern India Canal and Drainage Act, 1873.

Learned counsel for the petitioner has submitted that respondents No.3 and 4 filed application before the Divisional Canal Officer, Abohar Canal Division, Abohar i.e. respondent No.2, wherein, they alleged that the petitioner and his father, namely, Angrej Singh and his brother Gurjeet Singh demolished the watercourse running in Rectangle No.73, Killa No.11, 20 & 21 for about 2.5 acres and on account of the same, irrigation of their agricultural land was stopped and thus, they approached for the restoration of the same. He submits that in pursuance to the application, enquiry was conducted by the lower canal authorities and SDO concerned proposed for the restoration of the watercourse at Point A-B-C. It is submitted that perusal of the said report and site plan would show that though in the application for restoration of the watercourse, it was alleged that the watercourse was demolished in Killa No.11, 20 & 21 of Rectangle

No.73, yet the SDO ordered for restoration of the watercourse at Point A-B-C which includes Killa No.1 and 10 as well. He submits that without going into the record of the case, the Divisional Canal Officer allowed the application filed by respondents No.3 and 4 vide order dated 31.08.2018. He further submits that aggrieved by the same, the petitioner filed an appeal before respondent No.1 i.e. Superintending Canal Officer, Ferozepur, who dismissed the same by ignoring the evidence on record vide order dated 23.09.2022. He submits that at the time of consolidation, the area left for the construction of the watercourse was never used by the landowners for the purpose of construction of watercourse. It is submitted that the petitioner filed an application dated 20.07.2023 before the Naib Tesildar, Lambi to establish the true facts of the case. It is further submitted that the Naib Tesildar, Lambi after spot inspection submitted his report dated 02.08.2023. It is submitted that on the conjoint perusal of the spot map and report filed by Naib Tehsildar dated 02.08.2023, it is apparent that no watercourse existed beyond point C in the spot map. He has submitted that the authorities below have failed to appreciate the same and thus, have drawn wrong conclusion in accepting the prayer of respondents No.3 and 4 and directing the restoration of the watercourse, which is totally against the evidence on record and the law settled. He has submitted that in view of the facts and circumstances of the case, the impugned orders being unsustainable in the eyes of law, deserves to be set aside.

Heard.

After hearing learned counsel for the petitioner and perusing the record, it is apparent that on the application filed by the petitioner, enquiry was conducted and counsel for both the parties were heard by Divisional Canal Officer. Record was examined and site map was perused.

Reports filed by the Zileadar and SDO were also perused. It was found that the petitioner admitted that 2 Karam watercourse was demolished. From the record, it was found that the watercourse A-B-C was functional at the site and the demolished watercourse was shown to be functional. Thus, finding the watercourse to be demolished, the same was restored by the Divisional Canal Officer, vide order dated 31.08.2018. In the appeal filed by the petitioner before the Superintending Canal Officer, the case was re-appreciated and the parties were heard. No infirmity in the order passed by the Divisional Canal Officer was found on perusal of the record. As there was ample evidence regarding the existence of the watercourse, which was demolished and the level of the same was found to be about 2 karam, thus, the appeal was also dismissed. Thus, both the authorities below have found the existence of the watercourse and hence, there are concurrent findings against the petitioner. 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. Both the Courts below have recorded their detailed findings.*

This Court does not find any infirmity in the orders passed by the authorities below and thus, the present petition being devoid of any merit, is hereby dismissed.

30.10.2023

sharmila

Whether Speaking/Reasoned :
Whether Reportable**(RAJESH BHARDWAJ)
JUDGE**Yes/No
:Yes/No