

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

CWP-27620-2023

Decided on 08.12.2023

Rishal Singh

...Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Deepak Chaudhary, Advocate, for the petitioner.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for setting aside the order dated 26.09.2023 (Annexure P-9) passed by respondent No.2, whereby the order dated 24.04.2023 (Annexure P-8) passed by respondent No.3 and order dated 06.02.2023 (Annexure P-7) passed by respondent No.4, have been upheld by allowing the application for restoration of dismantled watercourse by the private respondents.

It has been contended by learned counsel for the petitioner that on 24.08.2022 an application was filed by respondents No.5 to 7 for restoration of dismantled watercourse alleging that the same was running since the year 1988. He submits that on the application, Zileadar submitted his report wherein it was reported that the watercourse was situated at the middle dole of Khasra No.56//5 and 57//1. He submits that respondents No.5 to 7 were allotted turn of water at serial number 70 on the point at 49//21 x 54//4 as per site plan dated 07.11.1988. He has submitted that it shows that the watercourse was not existing at the relevant point of time. He submits that respondents No.5 to 7 were allotted water turn at serial number 71 in warabandi dated 18.11.1996,

whereby they were allotted taking point at Khasra/Killa No.49//23 x 54//4 and delivery point at 55//6 x/ 54//11. He submits that the respondent-authorities have fallen in error in restoring the alleged watercourse as this site plan was not in accordance with the warabandi. He has further submitted that respondent No.4 illegally directed to restore the alleged dismantled watercourse at 56//5 x 57//1 by ignoring the evidence on record vide order dated 06.02.2023. He submits that aggrieved by the same, the petitioner filed an appeal but the same was illegally dismissed by respondent No.3 vide order dated 24.04.2023. He submits that aggrieved by the same, the petitioner filed a revision petition before respondent No.2, who without appreciating the evidence on record and the statutory provisions dismissed the same vide order dated 26.09.2023. He further submits that as per *Jamabandi* and the site plan, the watercourse was not in existence in Khasra No.56//5 and 57//1, but all the authorities below have failed to appreciate the same and thus, have illegally restored the watercourse as alleged by respondents No.5 to 7. He submits that the thus, the impugned orders being totally in violation of the settled proposition of law, deserve to be set aside.

After hearing learned counsel for the petitioner and perusing the record, it is apparent that on filing the application by respondents No.5 to 7 for restoration of the dismantled watercourse, necessary process was initiated. Spot was inspected. Notice was issued to the petitioner. It was found on the verification that the watercourse was running from the last 35-40 years and the same was found to be demolished by the petitioner. Due to demolition of this watercourse, the private respondents were left with no other watercourse for irrigation of their land. On inspection it was found that the watercourse on northern side of middle dole of Murba/Killa No.56//5 and 57//1 was

demolished. This watercourse was approved as per warabandi dated 18.11.1996. As per site plan of 1996, the watercourse was found to be operational. Thus, the case of respondents No.5 to 7 was found to be genuine and hence, the demolished watercourse was restored by Sub Divisional Canal Officer vide order dated 06.02.2023. Thereafter, the petitioner filed an appeal, which was dismissed by the Divisional Canal Officer vide order dated 24.04.2023. Further the revision was filed by the petitioner before the Superintending Canal Officer, who again re-appreciated the evidence on record and the law settled and finding no infirmity in the revision, the same was dismissed vide order 26.09.2023. It is apparent that there are concurrent finding of facts by all the authorities below. 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.*

Thus, in the considered opinion of this Court, there is no infirmity in the orders passed by the authorities below. Hence, the present petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

08.12.2023
sharmila

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No