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

**CWP No.12316 of 2021 (O&M)
Date of Decision: 11.03.2024**

Puran Chand

..... Petitioner

Versus

**Divisional Canal Officer, Ghaghar Water Services Division,
Sirsa and others**

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Ajay Kamboj, Advocate
for the petitioner.

Mr. Manu Shoekand, Advocate
for respondent No.4/applicant in CM-9949-CWP-2021.

RAJESH BHARDWAJ, J.

CM-9949-CWP-2021

Instant application has been filed for placing on record the parat warabandi RD-24500-R Ebd of village and Tehsil Elenabad dated 26.03.2012 and 24.10.1980 and its site plan.

For the reasons recorded in the application, the parat warabandi RD-24500-R Ebd of village and Tehsil Elenabad dated 26.03.2012 and 24.10.1980 and its site plan are ordered to be taken on record.

Application is allowed.

CWP-12316-2021

Present writ petition has been filed for setting aside the impugned order dated 24.08.2020 (Annexure P-1) passed by respondent No.2 and impugned order dated 25.02.2021 (Annexure P-2) passed by respondent No.1 whereby respondent authorities have wrongly, erroneously and illegally directed the petitioner to restore the water course being wrong, illegal, arbitrary and against the principles of natural justice. Further prayer has been made for staying the operation of impugned order dated 24.08.2020 (Annexure P-1) passed by respondent No.2 and impugned order dated 25.02.2021 (Annexure P-2) passed by respondent No.1 during the pendency of the present petition.

It has been submitted by learned counsel for the petitioner that respondent No.3 filed a false and fabricated application for restoration of the water course before respondent No.2. He submits that respondent No.2 has illegally accepted the same under Section 24(3) of the Haryana Canal and Drainage Act, 1974 (hereinafter referred to as 'the Canal Act') vide impugned order dated 24.08.2020 (Annexure P-1). He submits that being aggrieved by the same, the petitioner filed an appeal under Section 24(4) of the Canal Act before respondent No.1, however, the same was illegally dismissed by respondent No.1 vide his impugned order dated 25.02.2021 (Annexure P-2) and thus, illegally upheld the order passed by respondent No.2. He has submitted that respondents No.3 & 4 are getting the irrigation from outlet No.24500-R Ellenabad Distributory by water course left in Muraba No.81, Killa No.01, 10, 11, 20, 22, 23, 24, 25 etc. which was left during consolidation

scheme to the original land owner Chiranji Lal and this water turn is in the name of Chiranji Lal. He submits that private respondents No.3 & 4 had purchased 06 acres of land from Vinod Rani wife of Jagmal, Jeet Ram son of Ramu, the legal heirs of Chiranji Lal. He has submitted that the authorities had ignored the statement of respondents No.5 & 6/legal heirs of original land owner Chiranji Lal. He submits that they duly appeared before respondent No.2 and deposed that their land is similarly situated along with respondents No.3 & 4 at water course of outlet No.24500-R. He submits that respondents No.3 & 4 had demolished the said water course to get the water course illegally from the land of petitioner. He has submitted that respondents No.5 & 6 wanted to get their land irrigated from the consolidated water course which was demolished by respondents No.3 & 4. He submits that respondents No.3 & 4 have wrongly, illegally and in connivance with the authorities got the order to dig the water course whereas there was never a water course in existence. He has submitted that the authorities below have drawn a wrong conclusion that the water course existed from last 20 years and the same falls under the category of permanent water course. He submits that respondents No.3 and 4 purchased their land 10 years ago from the legal heirs of Chiranji Lal and thus, there was no question of existence of water course from last 20 years. He has submitted that in the facts and circumstances, it is proved that in 2018-19 there was no water course on the eastern side of Muraba No.54, Killa No.15/1, 15/2/1 and thus, the report of Zileadar and Patwari showing the existence of water course from last 20 years is not proved. He has submitted that from the copy of

Abyana receipts for the year 2016-17, site plan and Akshijra of the land, the existence of water course from last 20 years is not proved. However, the authorities have failed to appreciate the same and thus, have drawn a wrong conclusion in accepting the application filed by respondent No.3 for restoring the water course. He submits that the impugned orders being against the law settled, 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 the respondents-State. At this stage, Mr. Manu Shoekand, Advocate appears and accepts the notice on behalf of respondent No.4.

Per contra, learned counsel appearing on behalf of respondent No.4 has opposed the submissions made by learned counsel for the petitioner. He has submitted that on the application filed by respondent No.3, the same was investigated by the revenue authorities. He submits that on verification of the Khaka plan etc., the existence of the water course was established from last 20 years, which was found to have been demolished by the petitioner. He submits that thus the application filed by respondent No.3 was found to be genuine and both the authorities below have passed the orders in accordance with law, which suffer from no infirmity. He submits that the impugned orders having been passed in accordance with law and the statutory provisions, thus, deserve to be upheld by dismissing the present petition filed by the petitioner.

Heard.

On hearing learned counsel for the parties and perusing the record, it has been found that application was filed by Karamjeet Kaur, wife of Sukhdev Singh, i.e. respondent No.3 under Section 24 of the Act for restoration of the water course Muraba No.54, Killa No.5-6-15/1-15/2/1, which is shown in the map of outlet No.24500-R, Ellenabad Distributory village Ellenabad District Sirsa. On filing of the application, the case was investigated by the Zileadar and the map as per the situation was prepared by the Canal Patwari. The statements of the concerned share holders were recorded and the report was forwarded to the Sub Divisional Officer for further proceedings. The site was inspected by the Sub Divisional Canal Officer, Ellenabad on 22.08.2020 along with Zileadar, respective Canal Patwari and SDR Ellenabad. On perusal of the record i.e. map and warabandi, it was found that area of the respondents was being irrigated from the water course which was found to have been demolished. This water course situated in Muraba No.54 was found to be in existence from the last more than 20 years. However the same was demolished. Thus, as the existence of water course was duly established, it was further substantiated from the record of parat warabandi. Hence it was restored as per the provisions of Section 24(3) of the Act by the Sub Divisional Canal Officer vide his order dated 24.08.2020. Being aggrieved by the same, the petitioner filed an appeal under Section 24(4) of the Act before respondent No.1. The parties were heard again and the record was re-appreciated. However, no infirmity was found in the order passed by the learned Sub Divisional Canal Officer and thus, appeal filed

by the petitioner was rejected by the Divisional Canal Officer vide impugned order dated 25.02.2021.

Thus on the findings of facts, both the authorities have given a concurrent view. The existence of the water course was duly established. The respondents had no other source of water except the one which was demolished by the petitioner.

Thus, in the facts and circumstances of the case, this Court does not find any ground for interference in the concurrent findings arrived at by both the authorities below. Hence, the present petition being devoid of any merit is hereby dismissed.

11.03.2024

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Whether speaking/reasoned

Whether reportable

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Yes/No

Yes/No

(RAJESH BHARDWAJ)

JUDGE