

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

CWP-8855-2024

Date of Decision: 22.04.2024

Ranbir Singh @ Ranbirsingh Kundu

..... Petitioner

Versus

Superintending Canal Officer and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. R.N. Lohan, Advocate, for the petitioner.

Mr. Jitender K. Sehrawat, Advocate, for caveators.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for quashing of impugned order dated 04.12.2023 (Annexure P-6) passed by respondent No.3, order dated 21.02.2024 (Annexure P-7) passed by respondent No.2 and order dated 15.03.2024 (Annexure P-8) passed by respondent No.1.

2. It has been contended by learned counsel for the petitioner that the petitioner and private respondents used to take water from outlet RD 17800-Tail Daulatpur minor and the new outlet RD 12800-Tail Kinla Minor was sanctioned by respondent No.2 i.e. Divisional Canal Officer vide order dated 17.07.2013 as per the demand of the shareholders and therefore, respondents No.4 and 5 were never taking water from the common line of Rect./Killa No.269//3-8. It is submitted that respondents No.4 and 5 filed an application before respondent No.3 i.e. Sub Divisional Canal Officer contending therein that their *kaccha* watercourse which was running from the last about 10 years was dismantled by Anoop son of Phool Kumar. He submits that the case was heard on 29.08.2023, wherein, respondents No.4 and 5 stated that compromise was effected among respondents No.4 and 5 with Anoop, who agreed to open the watercourse for six months and thus,

the application was dismissed by respondent No.3 vide order dated 01.09.2023. He submits that thereafter, respondents No.4 and 5 again filed application dated 25.10.2023 stating therein that watercourse on the middle line of rectangle No.269/3x8 was running from the last about 27 years on outlet No.12800-Tail and order dated 01.09.2023 was not implemented. He submits that respondents No.4 and 5 again filed an application on 20.11.2023 stating that Anoop son of Phool Kumar was to open the watercourse after Kharif crops, but he installed plate of solar pump on the middle line and thus, has violated the order. He has submitted that respondent No.3 without considering the submissions made by the petitioner, ordered for restoration of the watercourse relying upon *parat warabandi* dated 09.01.2023 by holding that there was no other source of irrigation for the applicants. He submits that on coming to know about the restoration of the watercourse, the petitioner filed an appeal against order dated 04.12.2023 before respondent No.2 i.e. Divisional Canal Officer. He submits that respondents No.4 and 5 also filed their appeal against this very order i.e. dated 04.12.2023. He submits that the both these appeals were heard together by respondent No.2. He submits that appeal filed by the petitioner was dismissed, whereas, that of respondents No.4 and 5 was allowed and the watercourse was ordered to be restored on permanent basis without deciding the nature of the watercourse vide order dated 21.02.2024. He submits that aggrieved by the same, the petitioner filed a revision petition before respondent No.1 i.e. Superintending Canal Officer, however, he has illegally dismissed the same vide impugned order dated 15.03.2024 relying upon the report of the Zildar dated 24.07.2023, *parat waranbadi* dated 30.04.1999 and 09.01.2023 as well as *khaka* plan. It is submitted that

respondent-authorities have fallen in error in upholding that there was no other source of irrigation for the land of respondents No.4 and 5 in spite of the fact that the lined watercourse touches the land of respondents No.4 and 5. He has further submitted that the impugned orders have been passed totally ignoring the evidence on record and the law settled and thus, the same being unsustainable in the eyes of law, deserve to be set aside.

3. Learned counsel for the caveators has vehemently opposed the submissions made by learned counsel for the petitioner.

4. Heard.

5. After hearing learned counsel for the parties and perusing the record, it is apparent that an application was filed by respondents No.4 and 5, wherein, it was requested to restore the *kacha* dismantled watercourse. On filing of the same, notice was issued to the petitioner and requisite reports were sought. Site was inspected on 04.12.2023. From the report of the Zileadar, Pabra it was found that Anoop had fixed solar plates on the alignment of the watercourse against the mutual compromise executed in the Court of Sub Divisional Canal Officer, Badopal and legal action was recommended by the Zileadar against Anoop. It was found that there was no other source of irrigation for the land of respondents No.4 and 5 and thus, demolished watercourse was restored by the Sub Divisional Canal Officer for two crops vide his order dated 04.12.2023. Aggrieved by the same, the petitioner and respondents No.4 and 5 filed their separate appeals before the DCO under Section 24 (4) of the Haryana Canal and Drainage Act. All the parties were re-heard and record was re-appreciated. Report of the Zileadar dated 24.07.2023 was also appreciated, wherein, it was found that watercourse was demolished in rectangle Killa No.269//3-8. *Parat*

warabandi dated 30.04.1999 was also perused. Thus, it was established that watercourse existed on the common line of rectangle Killa No.269//3-8 was in running condition at the spot. Thus, finding respondents No.4 and 5 having no other source of irrigation, learned Divisional Canal Officer restored the watercourse on the permanent basis. Aggrieved by the same, the petitioner filed a revision petition. Both the parties were heard again by the revisional authority. Though no illegalities whatsoever were found in the decision arrived at by both the SDCO and DCO, rather it was found that the watercourse remained in running condition for the last more than 20 years and the only source of irrigation to the respondents No.4 and 5 was stopped due to the demolition of this watercourse, thus, finding no merit in the revision petition, the same was dismissed by learned Superintending Canal Officer. It is crystal clear that all the three authorities after hearing counsel for both the sides and appreciating the relevant revenue record found the existence of the watercourse in question from the last more than 20 years, which was illegally dismantled. Respondents No.4 and 5 were found to be with no other source of irrigation except this watercourse and thus, restored the dismantled watercourse.

6. There is no gainsaying that there are concurrent findings all the authorities below in favour of respondents No.4 and 5. 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.*

7. 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.

22.04.2024

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No