



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

CWP-10292-2024

Date of Decision: 08.05.2024

Balveer Singh and others

..... Petitioners

Versus

Superintending Canal Officer and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. S.P.S. Tinna, Advocate, for the petitioners.

Mr. Navneet Singh, Sr. DAG, Punjab with
Mr. Joginder Kumar, Zileadar Kabul Shah,
District Fazilka.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for quashing the order dated 05.01.2024 (Annexure P-3) passed by respondent No.1 and order dated 01.03.2024 (Annexure P-5) passed by respondent No.2 whereby respondents No.1 and 2 have illegally and arbitrarily ordered for the restoration of the watercourse in Outlet No.697/Rajbaha-Hauj, without following the procedure laid down under Section 30(FF) of the Northern India Canal and Drainage Act, 1873 (for short, 'the Act').

2. It has been contended by learned counsel for the petitioner that the private respondents filed an application praying that they were the shareholders of outlet No.697/Rajbaha-Hauj and watercourse through which they were irrigating their land, was demolished by the petitioners. On filing the application, respondent No.2 i.e. Divisional Canal Officer sought report from the field staff i.e. the Zileadar and SDO and statements of the petitioners were recorded. He submits that the Zileadar wrongly recommended for restoration of the watercourse by ignoring the fact that



there already existed two watercourses for the irrigation of the private respondents. It is submitted that the private respondents wrongly submitted that their land falls in Killa Nos.19, 20, 21, 22 of rectangle No.29 and the watercourse irrigating their land falls in Killa Nos.16, 17, 18 was demolished by the petitioners. He submits that without inspecting the spot, respondent No.2 ordered for restoration of the alleged demolished watercourse vide his order dated 05.01.2024. He submits that aggrieved by the same, the petitioners filed an appeal before respondent No.1 i.e. Superintending Canal Officer. He has submitted that respondent No.1 without appreciating the evidence on record that the private respondents were already irrigating their land from the underground pipeline, dismissed the same vide impugned order dated 01.03.2024. He has drawn the attention of this Court to the site plan attached as Annexure P-6. He submits that the area of the private respondents is in yellow colour, whereas, that of petitioners is in orange colour. He submits that the alleged demolished watercourse is shown at point A-B. He further submits that respondent No.1 has overlooked the fact that underground pipeline is going from the land of the petitioner and the same meets the land at point B. It is submitted that there is a *nakka* at point B from where the private respondents are taking their turn of water. He has submitted that there being no evidence of this watercourse, both the authorities have fallen in error in restoring the same. He has submitted that the private respondents are irrigating their land from point Y-R, but the same has been ignored by both the authorities below. He has relied upon the judgments of this Court in Jagar Singh vs. Superintending Canal Officer and others, in CWP-1350-1971, decided on



15.09.1971; Ram Kumar vs. Bhim Singh, RSA-586-1976 decided on 01.02.1984; Joginder Singh vs. The Sub Divisional Canal Officer, Ghaggar Water Services Sub Division, Tohana and others, CWP-15388-2000 decided on 09.05.2002; Sube Singh and another vs. Sh. R.S. Bamel, Sub Divisional Canal Officer, Hisar Water Services Division and others, in CWP-7572-2002 decided on 12.08.2003 and Malook Singh and another vs. Superintending Canal Officer, Ferozepur and others, in CWP-8906-2010 decided on 13.02.2013. Thus, he has submitted that the impugned orders being totally against the evidence on record and against the law settled, deserve to be set aside.

3. Learned State counsel has opposed the submissions made by counsel for the petitioners.

4. Mr. Joginder Kumar, Zileadar Kabul Shah, District Fazilka is present in Court. The Court has interacted with the officer.

5. After hearing both the sides and perusing the record, it is apparent that application under Section 30-FF(2) of the Act was filed by the private respondents for restoration of the watercourse. On the filing of the application, report was submitted by the Zileadar. Necessary action under Section 30-FF of the Act was taken. From the report filed by the Zileadar, it was found that Government road existed on the southern boundary of Killa No.13-14-15 of Rectangle No.20 M, however, the same was not found to have existed at the site as was confirmed by the field staff. Hence, demolition of the watercourse was found to have been established and thus, the watercourse was restored by the Divisional Canal Officer. In the appeal filed before the Superintending Canal Officer, both the parties were heard



and it was found by learned Superintending Canal Officer that irrigation of the private respondents was stopped due to demolition of the watercourse.

6. The Court has interacted with the officer present in Court, who informed the Court that as depicted in the site plan, the watercourse runs from point X-Y-A-B, however, portion of this watercourse from point A-B was found to have been demolished. He further apprised the Court that watercourse as contended by counsel for the petitioners running from point Y-R had also been demolished and thus, the private respondents were left with no source of water. He has apprised the Court that the watercourse running from X-Y-A-B is a sanctioned watercourse. Thus, there is no doubt that the watercourse running from point X-Y-A-B which leads to the land of the private respondents, is a sanctioned watercourse and part of this at point A-B has been demolished. Thus, it is apparent that the sanctioned watercourse was illegally demolished by the petitioners, hence, there is no illegality whatsoever in the impugned orders passed by both the authorities in restoring the same.

7. There is no gainsaying that there are concurrent findings by both the authorities below in favour of the private respondents. 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.*

8. 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.

08.05.2024
sharmila

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

(RAJESH BHARDWAJ)
JUDGE