

131 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-13897-2025 (O/M)

Date of decision : 13.11.2025

Anil Kumar

..... Petitioner

Versus

Superintending Canal Officer, Ferozepur Canal Circle,
Ferozepur and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. G.L. Bajaj, Advocate
for the petitioner.

Mr. Nirmaljit Singh Diwana, Senior DAG Punjab.

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HARSH BUNGER, J. (ORAL)

1. Prayer in the instant civil writ petition filed under Articles 226/227 of Constitution of India, inter alia, is for issuance of a writ in the nature of certiorari for setting aside order dated 30.07.2024 (Annexure P-6), passed by learned Divisional Canal Officer, Abohar (in short 'DCO') and order dated 24.01.2025 (Annexure P-7), passed by learned Superintending Canal Officer, Ferozepur Circle, Ferozepur (in short 'SCO').

2. Briefly, respondent No. 3 (Vishal Kumar) approached canal authorities with the plea that his land was being irrigated from a watercourse 'ABCD' connected with outlet No. 79492-R Sukhchain Minor of village Sardarpura, Tehsil Abohar, District Fazilka, however, same has been demolished from point 'B to C' and point 'C to D',

accordingly, prayer was made for restoration of said watercourse. In order to support aforesaid contention, reliance was placed upon an order dated 12.07.2006, passed by Deputy Collector, Abohar, whereby he had fixed the turn of water (warabandi) on this watercourse (khal).

2.1 It appears that the aforesaid claim of respondent No. 3 was objected to by land owners through whose land the said watercourse was being claimed; on the plea that there was no watercourse 'ABCD' running at the spot nor there was sign of demolished khal and even the field staff had not recommended restoration of said watercourse.

2.2 Upon consideration of the matter as well as records, learned DCO himself inspected the spot on 13.07.2024 and it was found that the khal from point 'A' to point 'B' was not touching the land of respondent No. 3. It was further observed that since Khal at point 'C-D-E-F' was low from the level of land of respondent No. 3, therefore, it was not possible to irrigate land of respondent No. 3.

2.3 During the course of hearing of that petition, a consensus was arrived between respondent No. 3 and other adjoining land owners that there was a watercourse, which was carved out during consolidation operation in village in Rect. No. 119, Killa No. 21, 22, 23, 24, 25, which was running at the spot. It was further agreed that as per old site plan attached to the case, the watercourse 'BC' has been shown demolished to some length and all parties agreed to restoration of the same, accordingly, learned DCO, vide order dated 30.07.2024 (Annexure P-6), upon considering the consensus arrived at between the parties appearing before

him; ordered restoration of watercourse 'CD' in Rect. No. 120, Killa No. 25 and watercourse 'BC' as per mutual consent.

2.4 Feeling aggrieved against aforesaid order dated 30.07.2024 (Annexure P-6), petitioner preferred an appeal before learned SCO, which was dismissed, vide order dated 24.01.2025 (Annexure P-7).

3. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition before this Court seeking relief(s), as noticed hereinabove.

4. Learned counsel for petitioner submits that the petitioner was owner of land comprised in Rect. No. 120, Killa No. 25 and there was no watercourse sanctioned in his land nor any watercourse was running through the said land. It was further submitted that the watercourse in question has been wrongly ordered to be restored on the basis of mutual consent by learned DCO, and that no notice or summons was ever issued to the petitioner. It was further claimed by the petitioner that on the land of respondent No. 3, the watercourse 'CDEF' was running at the spot, which is lined in between Rect. No. 128 Killa No. 1, 2, 3, 4, 5, accordingly, prayer for setting aside of order dated 30.07.2024 (Annexure P-6) was made.

5. Heard.

6. As regards first contention of learned counsel for petitioner that he is owner of land comprised in Rect. No. 120, Killa No. 25; it is observed from vernacular copy of jamabandi for the year 2022-23 (Annexure P-2) that the aforesaid land comprised in Rect. No. 120, Killa No. 25 is recorded as joint ownership of Boga Ram son of Hardass (1/2

share) and Jony wife of Boga Ram (1/2 share). In the remarks column of said jamabandi (Annexure P-2), there is an entry of mutation No. 2070/1 indicating that land comprised in Rect. No. 120, Killa No. 25 to the extent of 8 Kanal is shown to have been exchanged between one Vishnu Kumar son of Tulsi Ram and Anil Kumar (petitioner).

6.1 During the course of hearing of this writ petition, a specific query was raised to learned counsel for petitioner as to whether the joint khewat No. 81/77, which includes aforesaid land comprised in Rect. No. 120, Killa No. 25, has been partitioned amongst the co-sharers, however, the response of learned counsel for petitioner was in negative.

6.2 It is also not disputed by learned counsel for petitioner that the nature of land comprised in Rect. No. 120, Killa No. 25 and also adjoining land are recorded as 'Nehri' i.e. canal irrigation.

6.3 That apart, it is also borne out from vernacular copy of jamabandi for the year 2022-23 (Annexure P-3) that the land comprised in Rect. No. 127, Killa No. 3/2, 4/3, 5/2, 8/2/1, 9/1 and 10/1, there is a watercourse (gair mumkin khal) depicted therein. When the aforesaid entries as regards existence of watercourse in Rect. No. 127 are considered in relation to site plan (Annexure P-1), it clearly reflects the existence of the watercourse.

7. Be that as it may, learned canal authorities below have ordered restoration of the watercourse primarily on the basis of a consensus arrived at between respondent No. 3 and land owners of adjoining lands. In my considered view, even if the petitioner has obtained land comprised in Rect. No. 120, Killa No. 25 in exchange,

which infact is a part of joint khewat consisting of several other khasra numbers, in that eventuality, the petitioner only becomes a co-sharer in the joint khewat and concededly in the absence of partition, the petitioner cannot claim exclusive ownership of land comprised in Rect. No. 120, Killa No. 25. Further, it is not forthcoming from jamabandi (Annexure P-2) that the petitioner is in exclusive possession of land comprised in Rect. No. 120, Killa No. 25.

8. Learned counsel for petitioner has failed to show as to what prejudice has been caused to the petitioner with the provisioning of watercourse from kila line of land comprised in Rect. No. 120, Killa No. 25. In my considered view, the petitioner may seek partition of joint land (if so advised) so as to claim his land received by him in exchange out of joint land.

9. In view of the above discussion, I find no merit in this writ petition and same is accordingly dismissed.

10. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

13.11.2025
sjks

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No