

162 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-12817-2025 (O/M)
Date of decision : 06.05.2025

Sewa Singh

..... Petitioner

Versus

Superintending Canal Officer, Bhakra Water Services
Circle, Kaithal and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Tarun, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG Haryana.

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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 the order dated 26.07.2024 (Annexure P-1), passed by Sub Divisional Canal Officer, Rajound, Kaithal (in short 'SDCO'); order dated 26.11.2024 (Annexure P-3), passed by Divisional Canal Officer, Pundri Water Services Division, Kaithal (in short 'DCO') and order dated 19.02.2025 (Annexure P-5), passed by Superintending Canal Officer, Bhakra Water Services Circle, Kaithal (in short 'SCO').

2. Briefly, respondent No. 4 (Dalser) submitted an application before the canal authorities seeking restoration of watercourse on the plea that the same has been demolished by the petitioner herein (Sewa Singh) and resultantly the irrigation to his land has been interrupted.

2.1 Upon receipt of the aforesaid application, the matter was got inquired into from the concerned Zileadar. After going through the relevant documents including the field map and photographs of the site, it was reported that the katcha channel 'E – E1' in Rect. No. 48, Killa No. 1/1 had been demolished by the petitioner. It was further reported that the said water channel had been continuing since the time of consolidation and even the Nakkas of the applicant (Dalser) have been sanctioned on this very water channel, accordingly, recommendation was made that the water channel be made operational at the spot.

2.2 It transpires that learned SDCO issued notice to the concerned parties and after inspecting the site and recording the statements of the parties, it was concluded that the katcha water channel 'E – E1' had been demolished by the petitioner (Sewa Singh), accordingly, the same was ordered to be restored for a period of one year from Rect. No. 48, Killa No. 1/1 on its northern side, vide order dated 26.07.2024 (Annexure P-1).

2.3 Feeling aggrieved against order dated 26.07.2024 (Annexure P-1), the petitioner herein preferred an appeal before learned DCO, which came to be dismissed, vide order dated 26.11.2024 (Annexure P-3), holding that the watercourse in dispute has been running since more than 20 years and the same falls within the ambit of 'permanent watercourse' as defined under Section 2 (15) of Haryana Canal and Drainage Act, 1974 (in short '1974 Act'). Accordingly, the watercourse was ordered to be restored for unlimited period instead of one year.

2.4 Still aggrieved, the petitioner herein preferred a revision before learned SCO, who vide its order dated 19.02.2025 (Annexure P-5), modified the order dated 26.11.2024 (Annexure P-3), passed by learned DCO, to the effect that the watercourse be restored to its original condition for one year instead of unlimited period and the said period of one year would be counted from the date of restoration of watercourse at site. It has further been observed that respondent No. 4 would arrange the underground pipeline instead of open watercourse at his own cost.

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

4. Learned counsel for petitioner submits that the canal authorities have erred in law and facts in passing the impugned orders. It is submitted that the water channel in question is a private water channel of the petitioner for his own use and that he has dismantled the same on his own. It is further submitted that the aforesaid stand has not been countered by respondent No. 4, accordingly, the impugned orders are unsustainable in the eyes of law and prayer has been made for setting aside the impugned orders.

5. Heard.

6. In the present case, respondent No. 4 had approached the canal authorities seeking restoration of the water channel in question on the plea that the same has been demolished by the petitioner herein. The factum of demolition of watercourse in question is not disputed by the petitioner, however, the only stand taken by him is that the watercourse is

his own private watercourse and respondent No. 4 has nothing to do with it.

7. I have considered the said submission, however, I do not find any merit in the same. It has come on record that the Nakkas of respondent No. 4 (Dalser) have been sanctioned on the aforesaid water channel and the said fact has not been dislodged by the petitioner by referring to any material whatsoever. In case, the Nakkas of respondent No. 4 have been sanctioned on the watercourse in question and the demolition of the watercourse has been admitted on record, I do not find any illegality or perversity in the orders passed by the canal authorities, as far as restoration of watercourse in question is concerned.

8. In view of the above, the instant civil writ petition fails and the same is accordingly dismissed.

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

(HARSH BUNGER)
JUDGE

06.05.2025
sjks

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