



CWP-22902-2025 (O&M)

-1-

124

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

**CWP-22902-2025 (O&M)
Date of Decision: 08.08.2025**

Satyawar

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

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

Ms. Upasana Dhawan, AAG, Haryana.

HARSH BUNGER, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India *inter alia* seeking issuance of a writ in the nature of Certiorari for setting aside order dated 10.12.2024 (Annexure P-6) passed by the learned Superintending Canal Officer, Hisar; order dated 17.03.2025 (Annexure P-7) passed by the learned Divisional Canal Officer, Hisar and order dated 02.07.2025 (Annexure P-8) passed by learned Superintending Canal Officer, Hisar.

2. Briefly, respondent No.5- Khazana s/o Nathu filed an application before the canal authorities under Section 24 of the Haryana Canal and Drainage Act, 1974 (in short '1974 Act') seeking restoration of the demolished watercourse on the plea that the watercourse in question has been demolished by the present petitioner.

2.1 The petitioner appeared in the aforesaid proceedings and put



CWP-22902-2025 (O&M)

-2-

forth his stand that there was no watercourse at the site as claimed by respondent No.5- Khazana, rather the watercourse was through Point ADE in the site plan, placed on the record.

2.2 Upon receipt of the aforesaid application by the canal authorities, the matter was got investigated from the field staff; whereupon the concerned *Ziledar* inspected the spot and sanctioned *warabandi* in respect of the watercourse in question was considered and it was recommended to restore the watercourse up to the length of half acre.

2.3 When the matter was placed before the learned Sub Divisional Canal Officer, he rejected the claim of respondent No.5- Khazana by observing that there was no watercourse in the field No.209/14-17/1 (middle line) and that respondent No.5 was irrigating his area from another watercourse.

2.4 Feeling aggrieved against the order dated 15.06.2023 (Annexure P-4), respondent No.5- Khazana preferred an appeal before the Divisional Canal Officer, Hisar, which was dismissed vide order dated 27.08.2024 (Annexure P-5), however, on a revision petition being filed by respondent No.5, before the Superintending Canal Officer, Hisar, the case was remanded to the Divisional Canal Officer, Hisar vide order dated 10.12.2024 (Annexure P-6), passed by the learned Superintending Canal Officer, Hisar.

2.5 Upon remand, the learned Divisional Canal Officer, Hisar vide order dated 17.03.2025 (Annexure P-7), ordered restoration of the watercourse by observing as under:-

Decision: - *I have examined the record pursue in the case file including Khaka Plan, Warabandi record etc. The case received by way of remit back from SCO/BWS Circle-1 Hisar for*



CWP-22902-2025 (O&M)

-3-

redeciding the issue on merits after going through the relevant record, hearing the parties afresh and considering all pros and cons of the matter. It is observed that as per approved parat warabandi dated 09.03.1998, 27.06.2024 and 04.04.2021 attach with appeal file shows that taking & delivery points of wari of the appellant Khajan Singh S/o Sh. Nathu Ram for 43K-0M area was fixed at point rect./killa No. 209//13x17 i.e. "C" point of watercourse "BC" as marked on the khaka plan it is clear that this watercourse "BC" was continuously running for the last 34 years. But the Sub Divisional Canal Officer have suggested alternate while deciding the issue of restoration of watercourse. Accordingly, it is evident that the Sub Divisional Canal Officer has decided the matter in a casual manner.

Keeping in view above facts, the appeal of appellants Sh. Khajan Singh S/o Sh. Nathu Ram is considered as legitimate. The decision dated 15.06.2023 passed by Sub Divisional Canal Officer, Barwala Water Services Sub-Division, Barwala is hereby rejected, the watercourse "BC" running in middle line in rect//killa no. 209//14-17/1 is hereby restored under section 2(15) of the Canal Act, in the chak of outlet RD 64438/R Masudpur Panihari Link Channel in Village Masudpur Tehsil Hansi & Distt. The decision taken on dated 17.03.2025 and be conveyed to all concerned accordingly.”

2.6 Further, revision petition preferred by the petitioner against order dated 17.03.2025 (Annexure P-7), was dismissed by learned Superintending Canal Officer, Hisar vide order dated 02.07.2025 (Annexure P-8) by observing as under:-

“I have gone through the record, contained in the revenue missal, reg. restoration of watercourse in the chak of outlet RD 63438-R Masudpur-Panihari Link Channel. Arguments of the parties for and against the restoration, have been considered at length.

It is evident from the approved parat warabandies dated 09.03.1998, 27.06.2024 & 04.04.2021 that the holding of



Khajan Singh S/o Sh. Nathu Ram was allocated wari/turn with taking and delivery points at rectangle/killi No. 209//13x17 i.e. at 'C' point of the watercourse 'BC' which is off taking from the main watercourse at point 'B' i.e. 209//14x16. Thus it is crystal clear that the holding of the respondent Khajan Singh was getting irrigation through the watercourse 'BC' which is running on the common line of 209//14-17. Accordingly, the watercourse 'BC' falls in the ambit of a permanent watercourse U/S 2(15) of Haryana Canal & Drainage Act 29 of 1974 as the watercourse remained continuously in running condition for the last more than 30 years. The plea of the petitioner Satywan S/o Sh. Kishan Lal that despite fixation of nakka on the watercourse 'BC' the respondent Khajan Singh is irrigation his holding through the watercourse 'ADE' at site in addition to other shareholder i.e. Sh. Sarti S/o Sh. Badlu, Satbir S/o Sh. Gaje Singh and Ratna S/o Sh. Hanumant. Thus there is no justification for restoring the watercourse 'BC'. His further plea that he is ready to give one watercourse. Further, that he has not demolished the watercourse 'BC' petitioner to claim that has no right there is no such record.

In view of the aforementioned facts, the undersigned arises at the conclusion that alternate cannot be suggested in the cases of restoration of watercourse. Resultantly the revision petition, being not based on genuine and concrete grounds, is hereby rejected. The decision dated 17.03.2025 passed by the Divisional Canal Officer, Hisar water Services Division Hisar is maintained by restoring the watercourse 'BC' on permanent basis."

3. In the aforementioned circumstances, the petitioner has filed the instant Writ Petition before this Court for seeking relief(s) as noticed hereinabove.
4. Heard.
5. At the outset, it is required to be noticed that in the earlier round of litigation when the matter came up before the learned Superintending

**CWP-22902-2025 (O&M)****-5-**

Canal Officer, Hisar, he had remanded the matter back to the learned Divisional Canal Officer, Hisar for deciding the matter afresh vide his order dated 10.12.2024 (Annexure P-6). However, at the relevant time, the petitioner did not raise any challenge to the same and rather participated in the proceedings and allowed the proceedings to go on until the passing of order dated 17.03.2025 (Annexure P-7). Therefore, the petitioner cannot be permitted to raise any challenge to order dated 10.12.2024 (Annexure P-6).

6. Be that as it may, the learned Divisional Canal Officer, Hisar upon perusal of the record including the *khaka* plan, *warabandi* record, etc. came to the conclusion that the taking and delivery points of *wari* (turn) of respondent No.5- Khazana for area measuring 43 kanals was fixed at Point C of watercourse 'BC' as marked in the *khaka* plan i.e. at killa No.209//13x17 and it was held that the watercourse 'BC' was continuously running for the last 34 years.

6.1 The learned Divisional Canal Officer, Hisar further observed that the learned Sub Divisional Canal Officer, Hisar had suggested the alternate whereas, the issue was regarding restoration of the watercourse. Therefore, the learned Sub Divisional Canal Officer, Hisar had decided the matter in a casual manner.

7. The learned Divisional Canal Officer, Hisar found that the claim of respondent No.5- Khazana was genuine and legitimate and accordingly, order dated 15.06.2023 (Annexure P-4) passed by the learned Sub Divisional Canal Officer, Hisar was set aside and he ordered restoration of the watercourse 'BC' running in the middle line in rectangle/killi No. 209//14-17/1 under Section 2(15) of the 1974 Act in the chak of outlet RD 64438/R Masudpur Panihari Link Channel in Village Masudpur, Tehsil Hansi.

**CWP-22902-2025 (O&M)****-6-**

8. The order passed by the learned Divisional Canal Officer, Hisar has been further affirmed by the learned Superintending Canal Officer, Hisar while recording a categoric finding that the watercourse 'BC' falls within the ambit of permanent watercourse as defined under Section 2(15) of the 1974 Act as the said watercourse had remained continuously running for last more than 30 years. Learned Superintending Canal Officer, Hisar also observed that in a matter for restoration of watercourse, the alternate watercourse cannot be suggested.

9. Learned counsel for the petitioner has failed to refer to any material to dislodge the findings returned by the Divisional Canal Officer, Hisar as well as by the Superintending Canal Officer, Hisar, which is based upon record i.e. *khaka* plan and *warabandi*.

10. Considering the totality of circumstances, I find no compelling reason to interfere in the orders passed by learned Divisional Canal Officer, Hisar and learned Superintending Canal Officer, Hisar. Accordingly, the present writ petition is dismissed being devoid of any merit.

11. All pending application(s), if any, shall also stand closed.

08.08.2025*Himani***(HARSH BUNGER)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No