

2025:PHHC:079867



122

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

\*\*\*\*

**CWP-503-2025 (O&M)  
Date of Decision: 07.07.2025**

Jagsir Singh @ Jagseer Singh and others

..... Petitioners

Versus

Superintending Canal Officer, Patiala Canal Circle and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE HARSH BUNGER**

Present: Mr. Sherry K. Singla, Advocate  
for the petitioners.

Mr. Nirmaljit Singh Diwana, Sr. DAG, Punjab.

\*\*\*\*\*

**HARSH BUNGER J. (ORAL)**

The present writ petition has been filed under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of Certiorari to set aside order dated 06.08.2024 (Annexure P-1) passed by the learned Divisional Canal Officer, Mansa Canal and Ground Water Division, Water Resource Department, Punjab (for short 'the learned D.C.O.');

and order dated 27.11.2024 (Annexure P-3) passed by the learned Superintending Canal Officer, Patiala Canal Circle, Water Resource Department, Patiala (in short 'the learned S.C.O.').

2. Briefly, respondent No.3-Kuldeep Singh filed an application dated 28.05.2024 seeking restoration of water course 'AB', on the plea that

the same has been demolished by the petitioners.

2.1. Upon consideration of the matter, the learned D.C.O., vide order dated 06.08.2024 (Annexure P-1) ordered restoration of the water course.

2.2. Feeling aggrieved against the order dated 06.08.2024 (Annexure P-1), petitioners preferred an appeal before the learned S.C.O., who vide order dated 27.11.2024 (Annexure P-3) dismissed the same.

3. In the aforementioned circumstances, the petitioners have filed the present writ petition before this Court for seeking relief(s), as noticed hereinabove.

4. Learned counsel for the petitioners submits that the Canal Authorities below had erred in law and fact in passing the impugned orders. It is submitted that there was no watercourse in existence at the spot and the authorities below have erred in directing restoration of the water course 'AB' from the land of the petitioners and that too on basis of Warabandi record. It is contended that the record of Warabandi cannot be considered for directing restoration of the watercourse. It is further submitted that the place where the watercourse had been ordered to be restored, the said area consists of trees and even shops/houses have been constructed there. With the aforesaid pleas prayer has been made for setting aside the impugned orders.

5. Heard.

6. In the present case, respondent No.3 had approached the Canal Authorities with a prayer for restoration of the water course 'AB' on the allegation that the petitioners herein had demolished the water course. The learned D.C.O. upon consideration of the matter ordered restoration of the watercourse 'AB' by taking into consideration the following factors:-

(i) On spot inspection by the learned D.C.O., Katcha;

watercourse was found in existence on the Eastern common Watt (middle line) of Killa No.55/6-15 and ahead of it, on the Northern Watt (middle line) of Killa Nos. 54//11-12-13, no water course was in existence.

(ii) As per the Warabandi record, Nakka for taking water of Khata No.89 is at 55//6-54//1 and for giving water is at 54//10-12.

(iii) Similarly, Nakka for taking water of Khata No.90 is at 54//10-12 and for giving water is at 54//8-13.

(iv) Likewise, Nakka for taking water of Khata No.91 is at 54//8-13 and for giving water is at 26//5-19//25.

6.1. Therefore, learned D.C.O. came to the conclusion as regards existence of watercourse 'AB' on the basis of spot inspection and Warabandi records.

7. In the case of *Brij Lal v. State of Punjab, 1985 RRR 76*; this court held as under:-

*"...What is more in the written statement filed on behalf of respondents Nos. 1 to 3, it has been clearly mentioned that on the water course warabandi has been sanctioned in favour of the aggrieved share-holders under Section 68 (4) of the Act to which no objection had been taken by the petitioner at any stage. In view of the above fact either by implication the water-course would be taken as a sanctioned water course or in any case it would be taken that the petitioner had agreed to the use of the said water-course by the respondent-shareholders and that is why no objection had been raised when the department sanctioned warabandi on the said water course giving right to the respondent shareholders to take water through that water course to their fields..."*

7.1. In *Ram Kumar v. Superintending Canal Officer, Bhakra*;

**2017(1) Law Herald 292**; this court held as under:-

*“5. Zileadar had clearly mentioned in his report that he visited the spot on 21.4.2012 and found the dismantled watercourse in question. Even the SDO, W/S Sub Division, Adampur reiterated the aforementioned fact after the site inspection. It is settled law that the watercourse running more than twenty years and dismantled, them the same can always be restored.*

*6. The Warabandi record and sketch plan dated 31.7.1971 noticed by the authorities clearly depicted that the watercourse in question was in existence, therefore, was covered under the provisions of Section 2 (15) of 1974 Act...”*

7.2. In **Ajit Singh v. Superintending Canal Officer, 2017(1) RCR (Civil) 279**; this court held as under:-

*“6. There is no document placed on record with regard to the turn of water from which it can be inferred that petitioners were taking nakka from particular khasra number and they were giving nakka to respondent no.4. The warabandi is the best document to prove nakka taking and nakka giving which has been withheld. Since there is no document on record, it cannot be inferred that watercourse was existing at any point of time...”*

8. From the perusal of the aforesaid judicial pronouncement(s), it is evident that Warabandi is the best document to prove the existence of the watercourse, therefore, the contention of the petitioners that the Warabandi cannot be considered for directing restoration of the watercourse, is without any merit and is, accordingly, rejected.

9. As regards the other plea of the petitioners that place where watercourse has been restored, the same consists of trees and shops/houses; suffice it to say that the similar plea was raised by the petitioners before the learned Superintending Canal Officer, who considered the same and rejected it vide order dated 27.11.2024 (Annexure P-3), by observing as under:

*“The record available on the file shows that the respondent Party is demanding the restoration of demolished watercourse at Point A-B. According to the pleadings of the Appellate Party though in the alignment of the watercourse old trees are in existence but in the record of warabandi, on watercourse at Point A-B, the turns of water of Khata Nos.89-90-91 stood sanctioned. According to the warabandi record, Nakka for taking water of Khata No.89 is at 55//6-54//1 and giving water is at 54//10-12 for which one Killa Bharai of katcha watercourse has been provided. Nakka for taking water of Khata No. 90 is at 54//10-12 and giving water is at 54//8-13 for which one Killa Bharai of katcha watercourse has been given. Nakka for taking water of Khata No.91 is at 54//8-13 and giving water is at 26//5-19//25 for which one Killa Bharai of katcha watercourse and three Killa Mujrai of katcha watercourse has been provided. Regarding this fact, the Divisional Canal Officer has made mention in its decision which is establishing the existence of watercourse in warabandi record. Due to the existence of trees in the alignment of the watercourse, the record of warabandi cannot be ignored because with the demolition of the watercourse, the area of the Respondent Party has been deprived from the canal irrigation. None of the shareholders concerning to the residential houses/shops adjacent to the watercourse has opposed the demand of the Respondent Party by coming present in the court. According to the Canal Act, the watercourse is required to be restored at the place where it may have been running and it may have been demolished. In the field reports, the running and demolition of watercourse at Point A-B at the spot is established on the northern Watt of Bandobast Nos.54//11/1-11/2, 12, 13/1 as per the warabandi record. The Divisional Canal Officer after carrying out the spot inspection on 06.08.2024 has mentioned in detail in his decision regarding warabandi record/situation at the spot which is correct. Thus the decision of Divisional Canal Officer dated 06.08.2024 being in the interest of better irrigation is*

*hereby maintained and the appeal of the appellant Party is dismissed.”*

9.1. Learned counsel for the petitioners has failed to dislodge the above extracted findings returned by learned S.C.O. by referring to any material whatsoever.

10. Considering the totality of circumstances, once the Warabandi record shows the existence of Nakkas at the site from where the restoration of watercourse is being sought and the existence of Warabandi, record is itself not disputed by the petitioners, it has to be taken that the petitioners had agreed to the use of the said water course. This is evident from the fact that they did not raise any objection when the department had sanctioned the Warabandi on the said watercourse, thereby granting respondent No.3 the right to take water through that watercourse to his fields. In such circumstances, the aforesaid watercourse has to be taken as a sanctioned watercourse by way of implication or in any case by way of agreement.

11. In view of the above, I find no merit in the present writ petition, the same is accordingly, dismissed.

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

**07.07.2025**

*Pd*

**(HARSH BUNGER)  
JUDGE**

1. Whether speaking/reasoned : Yes/No  
2. Whether reportable : Yes/No