

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

Civil Revision No. 3092 of 2015 (O&M)

Date of decision : 7.5.2015

Avtar Singh

... Petitioner

VS

Kulwant Singh and others

... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Achin Gupta, Advocate, for the petitioner.

Mr. Radhe Shyam Sharma, Advocate, for respondent no. 1/
caveator.

Rajesh Bindal, J.

Challenge in the present petition is to the order dated 15.4.2015 passed by the learned court below whereby the order dated 14.8.2014 passed by the learned Trial Court accepting the application filed by the petitioner under Order XXXIX Rules 1 and 2 CPC, was set aside.

In the case in hand, the petitioner filed the suit for permanent, mandatory and prohibitory injunction restraining defendant nos. 1 to 3/ respondent nos. 2 to 4 from constructing any pacca water course on the land of the petitioner/plaintiff. The trial Court accepted the application for injunction but the learned Lower Appellate Court set aside the Trial Court order and declined the prayer for interim relief finding that the Civil Court did not have the jurisdiction to go into the issue, as the petitioner has effective alternative remedy under the Haryana Canal and Drainage Act, 1974 (for short, 'the Act') and the jurisdiction of the Civil Court is barred. For the purpose reference was made to judgments of this Court in Sultan Singh vs Ram Sarup 2014 (5) Law Herald 4630, Sanwal Ram and another vs State of Haryana and others 2014 (4) PLR 350 and Om Parkash vs State of Haryana and others 2014 (1) PLR 208.

Considering the aforesaid factual matrix, I do not find that any error has been committed by the learned Court below in declining interim relief to the petitioner when jurisdiction of the Civil Court is barred under the Act.

The petition is, accordingly, dismissed.

7.5.2015
vs

(Rajesh Bindal)
Judge