

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4693 of 2017 (O&M)
Date of Order:14.01.2019

Maghar Singh

..Appellant

Versus

Darshan Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.P.K.Ganga, Advocate,
for the appellant.

Mr. Ashok Verma, Advocate,
for the respondent.

ANIL KSHETARPAL, J(Oral)

Plaintiff-appellant is in the regular second appeal against the judgment passed by the learned first appellate court dismissing his suit on the ground that Civil Court has no jurisdiction in view of Section 25 of the Haryana Canal and Drainage Act, 1974 (hereinafter referred to as the Act of 1974').

Learned first appellate court has relied upon 2 judgments of this court to arrive at such conclusion. The judgments are titled as **Mangat and others vs. Tek Chand and others, 2002(1) PLJ, 88** and **Bahadar and others vs. Partap and another, 2010(4) PLR 375.**

Learned counsel for the appellant has drawn attention of the court to subsequent judgments of this court of Single Bench taking a view that suit for injunction is maintainable. Reference can be made to the judgments titled as **State of Haryana and another vs. Punjab Singh and others, 2014(9) R.C.R.(civil) 65** and **Balbir Sain vs. Smt. Chandrawali and**

others, 2011(52) R.C.R.(Civil) 804.

Learned counsel for the appellant submits that since there are conflict in view, therefore, the matter should be referred to a larger Bench.

On the other hand, learned counsel for the respondent has drawn attention of the court to the provisions of Sections 17 to 24 of the Act of 1974 which provides for a speedier remedy before the authorities constituted under the Act of 1974.

Keeping in view the aforesaid facts, Sub Divisional Canal Officer, Sirsa, is directed to decide the dispute between the parties within 21 days as provided in Section 24 of the Act of 1974. The course which has been adopted by this court is only to resolve the dispute in a expeditious manner. Any of the party shall be entitled to move an application within 15 days along with a certified copy of this order from the date of receipt of the order and Sub Divisional Canal Officer, Sirsa shall remain bound to take the application and decide the same on merits in accordance with the procedure laid down in the Acts and the Rules.

Till then, since there is already existing water channel which is being used by the parties, the parties would maintain status quo.

Needless to observe that the Sub Divisional Canal Officer, Sirsa shall independently decide the dispute without being influenced by any observations or findings arrived at by the Civil Court.

Regular Second Appeal is disposed of.

January 14, 2019
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No