

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 1761 of 2021 (O&M)

Date of decision : December 6th, 2022

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Amrender Singh and others

.....Petitioners

vs.

Gurjant Singh and another

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Arshdeep Singh Sra, Advocate for the petitioners

Mr. P.K. Ganga, Advocate for the respondents.

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H. S. Madaan, J.

1. In nutshell, facts of the case are that, plaintiff - Gurjant Singh had filed a suit for grant of permanent injunction against defendants – Gurcharan Singh and others, seeking a restrain order against them from causing any hurdle/obstacle in using the water course existing in the joint land detailed in head note of the plaint, situated within the revenue estate of Village Surtia, Tehsil Kalanwali, District Sirsa and further restraining the defendants from damaging/dismantling the water course in any manner or from changing the nature of water course in any way etc.

2. On getting notice, defendants No. 1, 2 and 4 appeared

and filed an application under Order 7 Rule 11 CPC, seeking rejection of the plaint, on the ground that the Civil Court has no jurisdiction to entertain and try the suit in view of Section 25 of The Haryana Canal and Drainage Act, 1974 (hereinafter to be referred to as 'the Act, 1974') and the suit was barred since an alternative efficacious remedy is available. Furthermore, no water course exists in the area comprised in Khewat No. 726, Khatuni No. 155, Square No. 123, Killa No. 23 (8-0). That application was opposed on behalf of the plaintiff stating that the instant case does not come within the purview of the Act, 1974, since the Canal Authorities have no power to pass a restrain order in a matter inter se between the parties.

3. After hearing the arguments, the trial Court of Additional Civil Judge (Senior Division), Sirsa, vide order dated 10.8.2021, dismissed the application leaving defendants No. 1, 2 and 4 aggrieved and they have approached this Court by way of filing the present revision petition, praying that the impugned order passed by the trial Court be set aside and the application for rejection of the plaint filed by him be accepted.

4. Notice of the revision petition was given to the respondents, who have put in appearance through counsel.

5. I have heard learned counsel for the parties besides going through the record.

6. The instant suit is one for grant of permanent injunction and such type of relief can be granted by a civil suit only. As regards the objection raised by the revisionists that jurisdiction of the Civil

Court is barred under the Act, 1974, the same is misconceived. If the various provisions of the Act, 1974, are perused closely, it comes out that Section 24 of the Act, 1974 deals with restoration of demolished or altered etc. water courses. Here, as per case of the plaintiff, defendants have not actually demolished or altered the water course, rather they are threatening to do so and preventing the plaintiff from using the water course. The canal authorities have no power to issue an injunction order. Such type of situation came before a Co-ordinate Bench of this Court in the case *State of Haryana and another vs Punjab Singh and others 2014 (9) RCR (Civil) 65*, and then it was observed that since the plaintiff had not challenged any order passed under Section 18(2) of the Act, 1974, therefore Section 25 of the Act was not applicable which stipulates bar in approaching the Civil Court relating to the matters falling under Sections 17 to 24 of the Haryana Canal and Drainage Act and the plaintiff had a right to approach the Civil Court. This judgment finds application to the facts of the present case and it cannot be said that the plaintiff deserves to be rejected since jurisdiction of the Civil Court to entertain and try the suit is barred under Section 25 of the Act, 1974. the case of the revisionist does not fall within the four corners of Order 7 Rule 11 CPC and there was no occasion to reject the plaintiff. The application filed by the revisionists-defendants seeking rejection of the plaintiff was rightly dismissed by the trial court vide impugned order.

7. No illegality or infirmity is found in the impugned order which might have called for interference by this Court while

exercising the revisional jurisdiction. The order under revision is affirmed and the revision petition, being without merit, stands dismissed.

December 6th, 2022
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(H.S. Madaan)
Judge

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