

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

CR No. 3832 of 2023

DATE OF DECISION :- July 11, 2023

Parkash

...Petitioner

Versus

Surender and others

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Ramesh Hooda, Advocate for the petitioner.

1. Being challenged in this revision petition is the order dated 30.10.2020 passed by Civil Judge (Junior Division), Rohtak vide which the application under Order 39 Rule 1 and 2 C.P.C filed by the plaintiff for grant of ad-interim injunction has been dismissed as well order dated 16.12.2020 dismissing the appeal filed against that order.

2. The grouse of the plaintiff was that an application was filed by defendants No. 1 and 3 before Sub-Divisional Canal Officer, Rohtak for water course to their fields from eastern side of rectangle and killa No. 17//15 and 16 belonging to the plaintiff and for a limited period of six months the request was allowed vide order dated 6.7.2015. Later on an application was moved before Divisional Canal Officer, Water Division, Rohtak, who vide order dated 7.3.2017 had approved the scheme for water course to the defendants from the land belonging to the plaintiff. The plaintiff has challenged the said order being illegal null and void liable to be set aside.

3. The defendants had opposed the application contending that jurisdiction of the Civil Court in the matter was barred in terms of Section 25 of the Haryana Canal and Drainage Act, 1974; the plaintiff has an efficacious remedy

to approach Appellate Authority against the order and no relief can be granted by the Civil Court. The order passed is, however, defended as legal and valid.

4. After hearing arguments, the trial Court dismissed the application finding that there was no prima-facie case in favour of the plaintiff; the component of balance of convenience and irreparable loss was also not in favour of the plaintiff since the Canal Authorities had acted in provisions of Act, 1974 and the defendants in pursuance of order passed by competent authorities have deposited the compensation amount inasmuch as a valid scheme was passed in their favour and any order contrary to the scheme passed will cause irreparable loss to the defendants.

5. In appeal, learned Additional District Judge, Rohtak agreed with findings recorded by the trial Court had dismissed the appeal.

6. Now the plaintiff is before this Court by way of filing the revision petition.

7. At the very outset, it may be stated that the revision petition has been filed highly belatedly inasmuch as the order passed by learned Additional District Judge, Rohtak is dated 16.12.2020 whereas the revision petition was filed on 20.1.2022 i.e. after a period of one year as against the limitation of 90 days provided under Article 131 of the Limitation Act. Further more the impugned orders are found to be legal and valid not having any ailment of arbitrariness or perversity. There is no occasion to interfere there with.

8. The revision petition is without merit and is dismissed accordingly.

(H.S. MADAAN)
JUDGE

July 11, 2023

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No