



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

RSA-9672-2018 (O&M)

Date of decision: 12.12.2025

Krishan @ Shri Krishan

.....Appellant

Versus

Sudhir Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Mukul Aggarwal, Advocate for the appellant.

HARKESH MANUJA, J.(Oral)

1. By way of present appeal, challenge has been laid to the judgments and decrees dated 26.02.2015 passed by the learned Civil Judge (Jr. Division), Sonapat and 09.04.2018 passed by learned Additional District Judge, Sonapat whereby suit for declaration with consequential relief of permanent injunction filed at the instance of appellant/plaintiff was dismissed.

2. Briefly stating, appellant-Krishan @ Shri Krishan sought declaration with consequential relief of permanent injunction against the defendants to the effect that order dated 21.07.1992 passed by Divisional Canal Officer, WJC Division, Sonapat and the subsequent mutation bearing No.3237 dated 30.07.1993 sanctioned on the basis of the said order were illegal, null and void and not binding upon the plaintiffs and thus, the same be set aside.

3. Upon notice, respondents appeared and filed their written statement. Besides merits, it was also pleaded that the Civil Court was having no jurisdiction to adjudicate upon the validity of the order dated 21.07.1992 passed by Divisional Canal Officer, WJC Division, Sonapat as the same was required to be assailed under the statutory remedies available to the plaintiff/appellant in terms of the provision of Haryana Canal and Drainage Act, 1974 (hereinafter referred as 'the

Act').



4. On the basis of pleadings, the learned Trial Court framed the following issues:-

“1. Whether the plaintiffs are entitled to a decree for declaration to the effect that the order dated 21.07.1992 passed by the Divisional Canal Officer, WJC, Division, Sonipat and the subsequent mutation No. 3237 dated 30.07.1993 sanctioned on the basis of the above said order and the subsequent revenue records relating thereto are wrong, illegal, null and void and the same are not binding upon the rights of the plaintiffs and are liable to be set-aside, as prayed for? OPP

2. Whether the plaintiffs are entitled to the relief of permanent injunction restraining the defendants No. 1 to 3 from taking possession of the land measuring 0 Kanal 7 Marla of the Killa No. 64/4/2 of 64/4 detailed in para No. 1 of the plaint on the basis of the order dated 21.07.1992 and subsequent mutation No. 3237 dated 30.07.1993 and subsequent revenue records from the plaintiffs illegally and forcibly?OPP

3. Whether the suit of the plaintiffs is not maintainable in its present form?OPD

4. Whether the plaintiffs have neither cause of action, nor locus standi to file the present suit?OPD

5. Relief.”

5. Learned Trial Court vide judgment and decree dated 26.02.2015 dismissed the suit filed at the instance of plaintiff/appellant while holding that in terms of Section 25 of the Act, Civil Court was having no jurisdiction to adjudicate upon the validity of the order dated 21.07.1992 passed by the Divisional Canal Officer, WJC Division, Sonapat as neither there was any violation of principle of natural justice nor there was any jurisdictional error or violation of the mandatory procedure laid down under the provisions of the Act. Being aggrieved, appellant/plaintiff filed an appeal before learned Additional District Judge, Sonapat which was dismissed vide judgment and decree dated 09.04.2018. Hence, the present appeal.

6. Learned counsel for the appellant submits that the order dated 21.07.1992 passed by Divisional Canal Officer, WJC Division, Sonapat was in

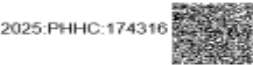


violation of the principal of natural justice, besides it has also been submitted that there was non-compliance of Section 17 of the Act as neither any draft scheme was prepared nor published and the appellant was not even afforded any opportunity to file objections thereupon. He further submits that in such circumstances, Civil Court had the jurisdiction to adjudicate upon the validity of the order dated 21.07.1992 passed by the Divisional Canal Officer, WJC Division, Sonapat and hence, the suit was maintainable.

7. I have heard learned counsel for the appellant and perused the records.

8. A perusal of the order dated 21.07.1992 passed by the Divisional Canal Officer, WJC Division, Sonapat (P-6) shows that the application was filed on behalf of Sahdev son of Mehar Singh who was defendant No.4 in the suit and infact happened to be the real brother of plaintiff Nos.1 and 3; and son of plaintiff No.2. It has not been disputed that at the time of filing of application under Section 18(2) of the Act at the hands of Sahdev Singh son of Mehar Singh, he happened to be one of the co-sharers in the joint land alongwith plaintiff/appellant. In the circumstances, it can not be said that order dated 21.07.1992 passed by Divisional Canal Officer, WJC Division, Sonapat was in violation of the principles of natural justice. Upon perusal of the evidence available on record and the concurrent findings recorded by learned trial Court to the effect that the draft scheme for providing water course was published after inviting objections and suggestions from the concerned shareholders and the date of hearing was fixed as 25.06.1992. Thus, there was no violation of any mandatory provisions of the Act. Besides it, there was no jurisdictional error on the part of the Divisional Canal Officer, WJC Division, Sonapat.

9. In view of the discussion made hereinabove, there being no misreading of pleadings or any evidence available on record in the concurrent



findings recorded by the Courts below, neither any material evidence having lost sight off, the present appeal being devoid of merits is hereby dismissed.

10. Pending application(s) if any, shall also stand disposed off.

12.12.2025
Harish Kumar

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>