
(2014) 05 P&H CK 0053

In the Punjab And Haryana At Chandigarh

Case No : R.S.A. No. 2809 of 2011 (O&M)

Sanwal Ram and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 13-05-2014

Acts Referred:

Haryana Canal and Drainage Act, 1974 — Section 17, 18, 19, 20, 21

Citation : (2014) 176 PLR 350

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Advocate : Akash Singla, Advocates for the Appellant; Harish Rathee, Sr. D.A.G, Advocates for the Respondent

Judgement

Rakesh Kumar Jain, J.—The plaintiffs have been non-suited by the Courts below on the ground that the Civil Court had no jurisdiction to try the suit. It is an admitted fact that the prayer in the suit is regarding restoration of dismantled watercourse. The SDO passed the order of restoration of the watercourse to its original condition for one year, whereas the procedure for restoration of a dismantled watercourse is provided under Section 24(3) of the Haryana Canal and Drainage Act, 1974 (here-in-after referred to as "the Act"). The jurisdiction of the Civil Court is barred under Section 25 of the Act, which reads as under:-

"25. Bar of jurisdiction of Civil Court:--

Notwithstanding anything contained in this Act or any other law for the time being in force. No Civil Court shall have jurisdiction to entertain or decide any question relating to matters falling under Sections 17 to 24." According to the aforesaid provision, a Civil Court would not have the jurisdiction to entertain or decide any question relating to matter falling under Sections 17 to 24 of the Act. Accordingly, the issue involved is as to whether the present suit is also barred by Section 25 of the Act.

2. Learned counsel for the appellant has referred to a decision in the case of Neki

Ram v. The Deputy Collector, Adampur Water Services Division and others, (2007-1)145 PLR 603 in which order of the Deputy Collector passed under Section 55 of the Act regarding the distribution of water was challenged in which it was held that since the watercourse has been dug out from the land of the petitioner for supply of water to the fields of the respondent without hearing him, therefore, the Civil Court would have the jurisdiction and in that matter, the writ petition was entertained. However, the aforesaid judgment is not applicable because in the said case, the issue with regard to Civil Court jurisdiction was not involved, rather a writ petition was filed before this, Court.

3. Learned counsel for the appellant has further cited a judgment of this Court in the case of State of Haryana v. Makhan Singh, (2002-1)138 PLR 822 to contend that in case the authorities have not followed procedure and have passed the order against settled principles of natural justice without affording opportunity of hearing, the jurisdiction of the Civil Court will be attracted.

4. In my view, the aforesaid judgment in State of Haryana's case (supra) is not applicable because it is categorically provided in Section 25 of the Act that the Civil Court would not have the jurisdiction to entertain or decide any question relating to the matter falling under Sections 17 to 24 of the Act and since restoration of a dismantled watercourse falls within those Sections, therefore, the Civil Court would not have the jurisdiction.

5. No other point has been urged. In view thereof, I do not find any merit in the present appeal as no question of law much-less substantial is involved therein.

Dismissed.