

(1997) 10 P&H CK 0011

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 4309 of 1997

Amar Singh Beniwal, Advocate
and Others

APPELLANT

Vs

Aad Ram and Others

RESPONDENT

Date of Decision: Oct. 15, 1997

Acts Referred:

- Haryana Canal and Drainage Act, 1974 - Section 55, 55(7)

Citation: (1998) 119 PLR 443 : (1998) 2 RCR(Civil) 506

Hon'ble Judges: Harphul Singh Brar, J

Bench: Single Bench

Advocate: S.L. Verma, for the Appellant;

Final Decision: Dismissed

Judgement

Harphul Singh Brar, J.

The petitioners filed a suit for declaration to the effect that orders dated 16th April, 1993 and 9th September, 1993 passed by the Divisional Canal Officer and the Superintending Canal Officer, under the Haryana Canal and Drainage Act, 1974 (hereinafter referred to as "the Canal Act") are void and without jurisdiction and sought a decree for permanent injunction against the implementation of the above said orders. Alongwith the plaint the petitioners also moved an application under Order 39 Rules 1 and 2 read with Section 151 of the CPC for grant of interim relief during the pendency of the suit. The trial Court dismissed the application of the petitioners vide order dated 8th August, 1994 by holding that the petitioners could not show at that stage that the orders passed by the competent authorities under the Canal Act, suffered any illegality or infirmity and the balance of convenience was also not in favour of the petitioners. The trial Court, on the other hand, held that if the defendants were refrained from implementing the valid orders, passed by the Canal Authorities under the Canal Act, then the defendants would suffer an irreparable loss and specific injury. As appeal was filed against that order before the

District Judge who vide his order dated 2nd September, 1997 dismissed the appeal of the petitioners and maintained the order of the trial Court. Hence this revision.

2. After hearing the learned counsel for the petitioners and going through the judgments for the Courts below, I do not find any valid reason to set aside the concurrent finding of the Courts below.

3. Orders dated 16th April, 1993 and 9th September, 1993 were passed by the Divisional Canal Officer and the Superintending Canal Officer respectively under the Canal Act. It is not shown by the learned counsel for the petitioners that these orders were without jurisdiction. Moreover, Section 55(7) of the Canal Act clearly states that no order passed under this section shall be liable to be called in question in a Civil Court. Section 55(7) of the Canal Act bars the jurisdiction of the Civil Court in the matter falling u/s 55 of the Canal Act. Even otherwise both the Courts below rightly refused the discretionary relief of temporary injunction to the petitioners. First of all, *prima facie*, the orders passed under the Canal Act cannot be questioned in a Civil Court. Secondly the balance of the convenience is not in favour of the petitioners. It is rather in favour of the respondents-defendants.

4. In these circumstances, this revision petition is dismissed in limine.