

CR-1803-2015 (O&M)

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

**CR-1803-2015 (O&M).
Decided on: March 13, 2015.**

Ajay Kumar

..... Petitioner(s)

Versus

Balbir Singh and others

..... Respondent(s)

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.Rajan Bansal, Advocate,
for the petitioner.**

M.M.S. BEDI, J (ORAL)

Plaintiff-respondent No.1 has filed a suit for permanent injunction to restrain the defendants-petitioners and other proforma defendants from interfering and obstructing the user of passage shown 'AB' in site plan appended with the plaint leading from Mansa-Bathinda road to the land in Khasra No.79//9 min (1-0) situated at Kot Shamir or from blocking the passage or raising any gate at point 'A' in the said plain.

Vide order Annexure P5, the trial Court had allowed the application filed by the defendant-petitioner to take photographs by entering the land of the plaintiffs-respondents on Mansa-Bathinda road in front of which field board of Dhillon Farm House has been installed by the plaintiffs-respondents. The said order was later on modified by the impugned order by observing as follows: -

“This Court has mentioned in order that

permission has been sought to visit itself owned land of plaintiff. It is clear that if Court will allow defendants to visit other property of plaintiff, it will be going beyond the scope of the merits of this suit. However, it is further clear that upon filing of this application for clarification of order dated 9.10.2014. It has come to the notice of undersigned that wording as mentioned in application of defendants, got mentioned as it is, in the order which has created the confusion. This court has mentioned in order in question that no prejudice is going to be caused and it is clear that no prejudice is going to be caused if the defendants visit suit land and not any other land. Therefore, inadvertently, certain words which find mention in order under reference i.e.,

“abutting on Bathinda-Mansa road situated towards Bathinda city side of suit property in front of which fields board of Dhillon Farm House has been installed by the plaintiff.”

Be not read as part of order dated 9.10.2014. Application stands disposed off in aforesaid terms. Let, a note be also appended on the said order making it clear that said portion has been ordered to be deleted from order dated 9.10.2014.”

Counsel for the petitioner has submitted that the trial Court has acted illegally in reviewing its own order and causing prejudice to the defendant-petitioner as by reviewing the order the defendant-petitioner has been permitted to take photographs from his

property without entering the property of the plaintiffs.

Counsel for the petitioner submits that in case the petitioner had to take photographs from his own land there was no need to seek permission and that withdrawal of the permission is not permissible by reviewing the order.

I have heard the learned counsel for the petitioner and considered the facts and circumstances of the case. With the assistance of the counsel for the petitioner, I have also gone through the site plan prepared by the defendant-petitioner to facilitate the adjudication of the present revision petition.

Without going into the minute details, I am of the opinion that an order passed by a Court in the exercise of inherent jurisdiction under Section 151 CPC cannot be challenged in revision unless and until there is inherent lack of jurisdiction to pass the impugned order.

In the present case the trial Court in the exercise of its discretion had allowed the application under Section 151 CPC. It has reviewed the scope of first order passed by exercising discretion.

The exercise of revisional jurisdiction to interfere in discretionary order is not warranted in the circumstances of the present case. Besides this, it is observed that the court cannot become a party to help a party to create evidence.

No ground is made out for interference.

The petition is dismissed.

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Nothing said in this order will prejudice the rights of the defendant-petitioner to prove the facts in issue by producing relevant and admissible evidence during the course of trial.

March 13, 2015.
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(M.M.S. BEDI)
JUDGE