

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

Civil Revision No.4327 of 2012

Date of decision: 24.03.2015

Haryana Urban Development Authority

... Petitioner

versus

Smt.Saroj and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr.Ajay Kumar Kansal, Advocate,
for the petitioner.

Mr. Sandeep Sharma, Advocate,
for respondent No.1

Ms. Vandana Sharma, Advocate,
for respondent No.4.

K.Kannan, J. (Oral)

1. The appellate court was not justified at all in granting relief of injunction for further construction even without proof that there is a public passage. A Commissioner can only identify the physical features and he has no business to make mention about the existence of a road which has to be brought out from appropriate entries in the revenue records or the municipal records. A public authority like HUDA cannot be prevented from putting up construction by a fanciful claim by the plaintiff that the construction by the authorities is on a public passage without proving that it is a passage as such and shown in the records to that extent.

2. The injunction is an expeditious relief in all cases where the plaintiff shows a prima facie case and will suffer irreparable injury if the relief were not granted. The prima facie case must be, under the situation where the plaintiff claims that it is a public passage, through the appropriate public record showing the same to be a public passage. Public roads or passages vest in the Municipal Committees and they ought to find appropriate entries in the municipal records and if they are not shown to exist, it cannot be taken that there is a prima facie case for consideration for grant of interim relief. The court's interim order was without any basis and on the observation of the Local Commissioner that there seems like a *gali*. I cannot allow for an order to be passed on such a nebulous observation.

3. The order passed by the court below is set aside and the civil revision is allowed. The petition for injunction stands consequently dismissed. The trial Court will endeavour to dispose of the case as expeditiously as possible.

(K.KANNAN)
JUDGE

24.03.2015
sanjeev