

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

Civil Revision No.5701 of 2012 (O&M)
Date of decision:26.03.2015

Dera Baba Ram Dass Ji

... Petitioner

versus

Ranbir Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. S.K. Singla, Advocate,
for the petitioner.

Mr. Rakesh Bhatia, Advocate,
for the respondents.

K.Kannan, J. (Oral)

1. I find no scope for intervention in an order of injunction passed by the courts below when the plaintiff was seeking for a restraint against the defendant from entering upon the property. The defendant was trying to assert a right of way to the passage that existed on the property but the plaintiff would state that his right to go through passage never existed and he cannot exercise such a right. The courts below have held that the plaintiff was guilty of suppression of the fact of existing a passage but was now trying to make out a case that although a passage exists, he did not have a right to way.

2. It is not as if any new passage is sought to be drawn or the character of property is sought to be changed. If there exists a passage but only the right of user of the defendant is denied, no serious prejudice could be caused in his own enjoyment of the property and if the courts below have made an inference that the plaintiff, who had not disclosed the existence of the passage, ought not to be given the relief of injunction, I will not find any reason to interfere with the same. The order is maintained and the civil revision is dismissed. Any observation made by the courts below or by this court as regards the existence or otherwise of the passage or the right asserted by the defendant will not be taken as having any bearing to the ultimate disposal of the suit.

(K.KANNAN)
JUDGE

26.03.2015
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