

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

**CR No. 7897 of 2015
Decided on 09.08.2016.**

Parminder Singh

.....Petitioner

Versus

Jasbir Singh

.....Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. P.P.S.Duggall, Advocate
 for the petitioner.

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred against the order dated 10.04.2015 passed by the learned Additional Civil Judge (Sr. Division), Zira and the order dated 13.08.2015 passed by the learned Additional District Judge, Ferozepur, vide which the application moved by the petitioner-plaintiff under Order 39 Rule 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 (for short 'C.P.C.') has been dismissed.

2. Learned counsel for the petitioner contended that from the photograph (Annexure P-4) attached with the revision petition, it is evident that the site in dispute is a passage. The respondents wants to encroach upon the said passage by raising the construction. So, the learned Courts below have wrongly declined the request of the petitioner for grant of the ad interim injunction.

3. I have duly considered the aforesaid contentions.

4. The petitioner has filed the suit for mandatory injunction directing the defendant-respondent to remove the temporary bathroom

illegally constructed by him in front of the house/haveli of the plaintiff on the street/road shown by red colour in the site plan and further the decree for permanent injunction has been sought restraining the defendant from raising any type of construction over the street shown by the yellow colour by the words 'ABCD' in the site plan.

5. In order to claim the relief of ad interim injunction, the petitioner was required to establish the *prima facie* case and balance of convenience in his favour and that he will suffer the irreparable loss. So, it was for the petitioner-plaintiff to *prima facie* establish that the portion 'ABCD' shown in the site plan is infact a passage/street. Admittedly, the plaintiff has not placed on file any Aks Chajra or site plan prepared by the revenue department. He has also not placed on file any title deed showing the existence of said passage. Mere production of the photograph and site plan attached with the plaint will not *prima facie* establish the existence of the passage in question. Thus, the petitioner has not been able to establish the *prima facie* case and balance of convenience in his favour. Once he has not been able to *prima facie* establish the existence of the passage, so there is no question of his suffering any irreparable loss.

6. Thus, keeping in view my aforesaid discussion, I do not find any illegality in the impugned orders passed by the learned Courts below, which does not call for any interference by this Court.

7. Thus, the present revision petition having no merits, is hereby dismissed.

(DARSHAN SINGH)
JUDGE

09.08.2016

S.khan

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No