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

(213)

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Date of Decision: - 27.11.2025

Dharampal

....Petitioner

Versus

Haryana State and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Ms. Monika Khatri, Advocate
for Mr. Vivek Khatri, Advocate
for the petitioner.

Mr. Raj Partap Singh Brar, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 24.05.2022 (Annexure P-6) passed by the Civil Judge (Junior Division), Hisar, whereby the application of the petitioner under Order 39 Rule 1 and 2 CPC has been dismissed. Challenge is also to the order dated 31.05.2022 (Annexure P-8) passed by the Additional District Judge, Hisar, whereby the prayer of the petitioner for the grant of interim stay has been declined.

ARGUMENTS ON BEHALF OF THE PETITIONER

2. Learned counsel for the petitioner has submitted that the



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petitioner had filed a suit for permanent injunction and mandatory injunction restraining the respondents from interfering in the peaceful possession of the plaintiff in the plot in question. It is further submitted that the plaintiff was in possession of the property from the time of his forefathers and had been staking fooder etc. and had also been keeping cow cakes and bricks etc. in the property in question. It is argued that the respondent had issued a notice dated 12.04.2022 (Annexure P-1) under Section 24(1) of the Haryana Gram Panchayati Raj Act, 1994 (hereinafter to be referred as “the 1994 Act”), which was illegal, null and void and the said notice had been issued without demarcation and was thus liable to be set aside. It is further argued that in response to the notice (Annexure P-1), the petitioner had gone to file reply to the said notice but defendant no.2 had refused to accept the same and thus, the petitioner had a cause of action to file the present suit. It is submitted that since the petitioner is in possession of the property, thus, he is entitled to the injunction prayed for.

ARGUMENTS ON BEHALF OF THE RESPONDENTS NO.1 TO 3

3. Learned State counsel, on the other hand, has submitted that the present suit which is a simpliciter suit for permanent injunction and mandatory injunction is not maintainable as no prayer for declaration had been made. It is further submitted that it is not the case of the plaintiff that he is the owner of the property or there is any lease deed or licence deed in his favour. It is argued that the respondents had initiated a project for the renovation of the village Johar/pond and had been setting up a filtration plant and on account of the encroachment made by the

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petitioner/plaintiff upon the property in question, the said project had been partly stalled. It is further argued that in the said circumstances, as has been provided under Section 41(ha) of the Specific Relief Act, 1963 (hereinafter to be referred as “the 1963 Act”), no injunction could be granted in favour of the plaintiff/petitioner as grant of injunction in his favour would impede or delay the progress and completion of the infrastructure project. It is submitted that as per schedule (1) of the 1963 Act, the provision for water and sanitation would come in the category of infrastructure projects and thus, no injunction could be granted regarding the same.

4. It is further submitted that even as per Section 14 of the Haryana Pond and Waste Water Management Authority Act, 2018, no person shall raise any construction or structure on pond land, green belts and catchment areas or occupy any pond land. It is stated that under the SVAMITVA Scheme, the property in question has been show as Johar/Pond, the ownership of which is in the name of the gram panchayat and the same bears I.D. 859 whereas the plaintiff has a plot having I.D. 965 registered in his name under the same SVAMITVA Scheme. It is argued that the plaintiff/petitioner had never approached the office of defendant No.2 to file reply and has highlighted para 6 of the written statement filed by the defendants in which it had been stated that in case the petitioner/plaintiff wanted to file his reply, then, the same could also be sent through email or registered post, but the plaintiff had not done the same, which also clearly shows that only object of the petitioner/plaintiff



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is to stall the infrastructure project. It is stated that the present suit is also barred under Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961 as the property in question is *gair mumkin* which falls within the definition of *shamilat deh* and further as per the instructions issued by the Government of Punjab vide letter dated 06.05.2021, all the public assets and open spaces are to be registered in the name of Gram Panchayat. It is submitted that both the Courts had rightly dismissed the application under Order 39 Rule 1 and 2 CPC and the said orders deserve to be upheld.

ANALYSIS AND FINDINGS

5. This Court has heard learned counsel for the parties and has perused the paper-book and finds that the present revision petition is meritless and the impugned orders passed by the trial Court as well as by the 1st Appellate Court are in accordance with law and deserve to be upheld for the reasons detailed herein after.

6. The petitioner had filed a simpliciter suit for permanent injunction and mandatory injunction. No prayer for declaration had been made in the same. It is not in dispute that the petitioner is not the owner of the property in question and as per the averments made in the plaint, the petitioner is apparently using the premises for keeping cow cakes and bricks etc. It is the case of the respondents that the petitioner had encroached upon the property in question regarding which notice dated 12.04.2022 (Annexure P-1) under Section 24(1) of the 1994 Act had been issued. There is nothing on record to show that any reply to the said

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notice has been given, although a perusal of the said notice (Annexure P-1) would show that it had been specifically stated that in case the petitioner had any objection with respect to the same, then, the petitioner could appear on 19.04.2022 at 11:00 A.M. in Block Office Hisar-I, before the panchayat to give explanation and to produce any document in support thereof. There is no averment in the plaint to show that on 19.04.2022, the plaintiff had gone to the Block Office Hisar-I to give any explanation or to produce any document and even the averments with respect to the fact that the petitioner wanted to give a reply to the notice dated 12.04.2022 are unsubstantiated, more so, in the light of the averments made in para 6 on the reply on merits in the written statement filed by defendants No.1 to 3 in which it had been specifically stated that the petitioner/plaintiff had never approached the office of the defendant No.2 to file any reply to the said notice and it was further stated that if the petitioner wanted to file any reply, then, the same could have been done through email or registered post, which had not been done by the petitioner/plaintiff.

7. It is also relevant to mention that the petitioner does not have any lease deed or licence deed or any other document to show that the petitioner was in legal possession of the property in question. The trial Court vide order dated 24.05.2022 had dismissed the application filed by the petitioner under Order 39 Rule 1 and 2 CPC and while dismissing the said application, had taken into consideration the photographs which clearly reflected that the land of Johar/Pond having feature ID 859 was



being developed under the government project and that the filtration plant was to be setup over the land which included the land upon which the present petitioner had encroached. It was further observed that the said project was an infrastructure project, thus, as per the provisions of Section 41(ha) of the 1963 Act, no injunction could be granted in the same. It was further observed that there were no material produced by the petitioner to show as to whether he had any rights over the disputed property and only bald averments have been made by the petitioner in the plaint and that the panchayat was well within its rights to use its property for the larger welfare of the villagers and the selfish interest of petitioner/plaintiff could not form the basis for delaying the infrastructure project. The Appellate Court also did not grant any interim injunction in favour of the petitioner after taking into consideration the fact that the work of renovation was going on at the Johar, in the interest of entire village and that the defendants had followed the due procedure as notice under Section 24(1) of the Haryana Panchayati Raj Act, 1994 had already been issued. The orders passed by the trial Court as well as by the Appellate Court are in accordance with law and deserve to be upheld.

8. The observations to the effect that infrastructure project was being developed on the land which included the land encroached by the petitioner could not be disputed before this Court. Section 41(ha) of the Specific Relief Act, 1963, is reproduced as under: -

“41. Injunction when refused.—An injunction cannot be granted—

.....



[(ha) if it would impede or delay the progress or completion of any infrastructure project or interfere with the continued provision of relevant facility related thereto or services being the subject matter of such project.]”

A perusal of the above provision would show that it has been specifically provided that an injunction cannot be granted if the same impedes or delays the progress or completion of any infrastructure project. A perusal of the schedule attached to the said Specific Relief Act, 1963 would show that any project with respect to water and sanitation would fall within the category of infrastructure projects. Thus, in the said circumstances, no injunction could have been granted in favour of the plaintiff and both the Courts had rightly dismissed the application under Order 39 Rule 1 and 2 CPC filed by the petitioner. It is further not in dispute that the petitioner is not the owner of the property in question nor is there any licence or lease deed in favour of the petitioner. The respondent authorities had adopted due procedure by issuing notice under Section 24(1) of the 1994 Act and had even given due opportunity to the petitioner to appear and to give his explanation and to produce any document in his support. In the said circumstances, grant of injunction in favour of the petitioner would cause irreparable loss to the defendants as well as to the villagers, as the same would result in stalling the infrastructure and thus, it had been rightly observed that there is no balance of convenience in favour of the petitioner and it is the defendants as well as the villagers who would suffer irreparable loss in case the injunction is granted. Moreover, the petitioner does not have a *prima*

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facie case in his favour.

9. Keeping in view the above, this Court is of the opinion that the impugned orders do not call for any interference by this Court and accordingly, the impugned orders are upheld and the present revision petition being meritless, deserves to be dismissed and is dismissed.

10. The observations made in the present order are only for the purpose of deciding the present revision petition in which the challenge is made to the orders passed by the trial Court and the Appellate Court considering the application filed by the petitioner under Order 39 Rule 1 and 2 CPC and the same should not be construed as an expression on the final merits of the case and the trial Court would decide the suit independently in accordance with law.

November 27, 2025
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes