



CR No. 5393 of 2025 (O&M) -1-

121 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 5393 of 2025 (O&M)
DATE OF DECISION: 12.08.2025

HARKRISHAN

.....PETITIONER

Vs.

ATMA RAM AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. C.M. Munjal, Advocate,
for the petitioner.

AMARINDER SINGH GREWAL, J.

1. The prayer in the present Civil Revision Petition, filed under Article 227 of the Constitution of India, is for setting aside the impugned order dated 26.05.2025 (Annexure P-7), passed by the learned Additional Civil Judge (Senior Division), Sirsa, whereby the application filed by respondents No. 1 and 2-plaintiffs under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short, "*the CPC*"), read with Section 151 thereof, was allowed; and the order dated 28.07.2025 (Annexure P-9), whereby the appeal preferred by petitioner-defendant No. 1, Harkishan Lal, against the aforesaid order was dismissed by the learned Additional District Judge, Sirsa.

2. A perusal of the record reveals that respondents No. 1 and 2 instituted a suit for declaration and for permanent injunction restraining the defendants from causing any interference, demolishing, destroying, or blocking the *kacha* passage left for the common use of the plaintiffs, as



detailed in the plaint. Along with the suit, an application under Order 39 Rules 1 and 2 read with Section 151 CPC was also filed.

3. Notice of the suit and the ad-interim injunction application was issued to the defendants (revisionists/petitioners), who filed written statements and replies denying the plaintiffs' claims. It was pleaded that the plaintiffs had no concern with the suit land, that defendants No. 1 and 2 were owners in possession thereof, and that they had left a passage for their own use for over ten years to access their fields and *Dhani* situated in Rect. No. 61, Killa No. 8. The defendants sought dismissal of the suit.

4. The learned Additional Civil Judge (Senior Division), Sirsa, after hearing the parties and considering the Local Commissioner's report, allowed the application under Order 39 Rules 1 and 2 CPC read with Section 151 CPC, restraining the defendants from interfering with the plaintiffs' use of the passage till the final disposal of the suit.

5. Learned counsel for the petitioner contended that the Local Commissioner's report (Annexure P-6) showed that Khasra No. 60/5/2 contains a running *rasta*, whereas in Khasra No. 60/1-2 there is no *rasta*. It was further reported that Khasra Nos. 60/8-9-10 on the north side contain a brick-lined *rasta* leading to the petitioner's *Dhani* at Khasra No. 61/8. Counsel submitted that the *rasta* leads only to the petitioner's *Dhani*, has no link to the plaintiffs' land, and that both parties have separate passages. It was urged that the plaintiffs were attempting to create a right of way over the petitioner's land where none existed, and that both the trial court and appellate court erred in granting and upholding the injunction.



6. Upon consideration, this Court finds that although the petitioner claims the passage is private, the Local Commissioner’s report establishes that, except for the passage in question, there is no other consolidated *rasta* leading to the plaintiffs’ land. In such circumstances, at the interim stage, the petitioner cannot be permitted to deny access to what is shown to be the only approach road to the plaintiffs’ property. The final determination of whether the passage is private will depend upon the evidence led before the trial court.

7. Accordingly, this Court finds no merit in the prayer for setting aside the orders dated 26.05.2025 and 28.07.2025 (Annexures P-7 and P-9, respectively), passed by the learned courts below.

8. Finding no illegality therein, the present revision petition, being devoid of merit, is dismissed.

9. Pending miscellaneous application(s), if any, shall also stand disposed of.

AUGUST 12, 2025
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(AMARINDER SINGH GREWAL)
JUDGE

Whether Speaking	Yes
Whether Reportable	No