**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****116****CR-7857-2023 (O&M)****Date of decision: 30.07.2025****Krishan Lal****...Petitioner(s)****Vs.****Raj Kumar and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

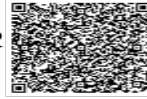
Present:- Mr. Abhimanyu Kalsy, Advocate for the petitioner.

Mr. Sahil Nain, Advocate for respondent No.1.

NIDHI GUPTA, J.

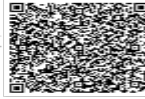
Present Civil Revision Petition has been filed by the defendant no.5 under Article 227 of the Constitution of India for quashing / setting aside impugned order dated 02.12.2022 passed in Civil Suit bearing number CS/4747/2021 by the Ld. Civil Judge, Junior Division, Ludhiana whereby the Ld. Trial Court has allowed the application under Order 39 Rule 1 & 2 of CPC filed by the respondent no. 1/plaintiff (Annexure P-14); as well as impugned order dated 27.10.2023 in Civil Miscellaneous Appeal no. 52 of 2023 passed by the Ld. Additional District Judge, Ludhiana dismissing the appeal filed by the petitioner against the impugned order dated 02.12.2022 (Annexure P-15) and to dismiss the application under Order 39 Rule 1 & 2 of CPC filed by the respondent no. 1 / plaintiff (Annexure P-12).

2. Brief facts of the case are that the plaintiff/respondent No. 1 had instituted a Civil Suit No. 4747 registered on 23.08.2021 (Annexure P-9)



seeking permanent injunction restraining the petitioner/defendant no.5 from alienating or transferring the suit property. The petitioner had appeared and filed written statement dated 29.09.2021 (Annexure P-10). Along with the said suit, the plaintiff had filed an application dated 20.08.2021 (Annexure P-12) under Order 39 Rules 1 and 2 CPC for grant of ad interim injunction. Vide order dated 02.12.2022 (Annexure P-14), the said application of the petitioner has been allowed by the learned trial court. The appeal filed by the petitioner against the said order has been dismissed by the Additional District Judge vide impugned order dated 27.10.2023 (Annexure P-15).

3. It is *inter alia* submitted by learned counsel for the petitioner that petitioner is in possession of the suit property by way of registered Sale Deed and Mutation sanctioned in favour of the petitioner. It is submitted that these facts have been duly established on record yet, application of the plaintiff for ad interim injunction has been allowed. Learned counsel contends that ad interim injunction could not have been granted in favour of the plaintiff as he is not even claiming to be in possession of any part of the suit property. It is further submitted that the suit of the plaintiff is only for permanent injunction. Firstly, Permanent injunction qua the suit property cannot be granted without claiming declaration thereof. Moreover, by way of granting ad interim injunction to the plaintiff, the Courts below have in a way virtually allowed the Civil Suit filed by the plaintiff.



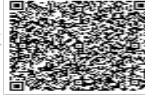
4. It is further submitted that it has been incorrectly surmised by the learned Courts below that petitioner has admitted possession of the respondent No.1 over the suit property. The petitioner has nowhere admitted that possession of property is with respondent No.1. Respondent No.1 has not even challenged the Mutation in favour of the petitioner. The very fact that petitioner is owner in possession of the suit property in pursuance to a registered Sale Deed and legally sanctioned Mutation, shows that prima facie case and balance of convenience are in favour of the petitioner; and by grant of ad interim injunction, irreparable loss and harm shall be caused to the petitioner. However, these facts have not been taken into consideration by the Courts below by passing impugned orders.

5. It is accordingly prayed that the present Civil Revision Petition be allowed; and the impugned orders be set aside.

6. No other argument is raised on behalf of the petitioner.

7. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions made on behalf of the petitioner.

8. The above said assertions made by the petitioner are all matters of evidence and shall be proved or otherwise, during the course of trial. For purposes of grant of ad interim injunction, 3 factors to be taken into consideration viz prima facie case, balance of convenience and irreparable loss. Although it has been argued by the petitioner that he is in possession of the suit property, however, in the written statement dated 29.09.2021 (Annexure P-10) the petitioner has averred/admitted in para 3(c) thereof that the plaintiff is in possession of the suit property "*purely as*



a licensee". The above admission of the petitioner to the effect that plaintiff is in possession of the suit property, demolishes his case for grant of ad interim injunction as the above 3 requirements of law now stand in favour of respondent No.1 in view of his admitted position of the suit property. The learned counsel for the petitioner is unable to deny this averment in written statement.

9. It is further the contention of the petitioner that the registered Sale Deed No. 4867 dated 09.02.1968 and the Agreement dated 25.11.1993 on the basis of which the respondent No.1 is claiming share and right over the suit property, are forged and fabricated. However, this is a matter of evidence.

10. Hence, I find no ground is made out to interfere in the impugned orders.

11. The present Civil Revision Petition is accordingly **dismissed**.

12. Pending application, if any, stands disposed of.

30.07.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No