

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****124****CR-7874-2025 (O&M)****Date of decision: 12.11.2025****Mool Chand****...Petitioner(s)****Vs.****Gautam Chabra and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Sharad Mehra, Advocate for the petitioner.

NIDHI GUPTA, J.

Present Civil Revision Petition under Article 227 of Constitution of India has been filed by the plaintiff against the concurrent orders of the learned Courts below; whereby application filed by the petitioner/plaintiff under Order 39 Rules 1 and 2 CPC, has been partly allowed by both the Courts below.

2. It is *inter alia* submitted by learned counsel for the petitioner that learned Courts below have granted injunction to the petitioner only qua the residential house and the shop. However, learned Courts below have failed to grant injunction in respect of the passage between the houses of the parties. It is submitted that qua the passage, the petitioner was only seeking injunction to the effect that respondents/defendants be restrained to raise any construction upon the disputed passage during the pendency of the civil suit. It is submitted that grave injustice shall be caused to the parties in case the defendant is not restrained



from doing so. It is contended that nature of the suit shall be changed in case the said injunction is not granted to the petitioner. It is submitted that photographs (Annexure P-8) clearly show that the petitioner's family is also using the said passage to park vehicles. The Site Plan (Annexure P-9) also reveals that door and window of the house of the petitioner, open to the passage. Thus, irreparable loss and injury shall be caused to the petitioner in case injunction is denied to the petitioner.

3. No other argument is raised on behalf of the petitioner. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced by the learned counsel for the petitioner.

4. Brief facts of the case are that the petitioner has filed Civil Suit dated 18.08.2023 (Annexure P-2) for declaration that the plaintiff is owner in possession of the suit property as described in the plaint; **and** for mandatory injunction and for permanent injunction. Along with the suit, petitioner had also filed application dated 18.08.2023 (Annexure P-3) under Order 39 Rules 1 and 2 CPC seeking ad interim injunction restraining the respondents/defendants from interfering or dispossessing the petitioner from the suit property and further restraining them from parking any kind of vehicle in front of the door of the house of the plaintiff which opens towards the said passage in front of the illegally constructed toilet by the defendants while encroaching upon the land of the common private passage and further restraining them from interfering in the installation of CCTV Cameras by the plaintiff



outside his shop cum double storey residential house, till the final disposal of the suit.

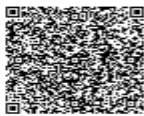
5. The respondents had filed written statement dated 06.10.2023 (Annexure P-4). Vide impugned order dated 09.10.2023 (Annexure P-5), learned Civil Judge (Junior Division), Amritsar had partly allowed the application of the petitioner under Order 39 Rules 1 and 3 CPC restraining the defendants No.1 to 3 from interfering into peaceful possession of the plaintiff over the shop and residential portion; all shown in red colour in the site plan filed by plaintiff, except in due course of law till the final disposal of the case. As the Trial Court has failed to grant injunction qua the passage, petitioner had preferred an Appeal bearing No. CMA 130 of 2023 before the learned Additional District Judge, Amritsar. However, vide impugned order dated 16.09.2025 (Annexure P-1), learned Additional District Judge, Amritsar had dismissed the appeal of the petitioner filed against the order dated 09.10.2023.

6. It is the case of the petitioner that ad interim injunction ought to have been granted qua the suit passage as well, as the said passage is a common passage; and window and door of the house of the petitioner open in the common passage; and that the petitioner uses the said passage for ingress and outgress; and for parking his vehicle. In support of his above contention, petitioner has produced photographs and Site Plan. However, a perusal of the record shows that in contravention of the said Site Plan produced by the petitioner,



respondents had produced their own Site Plan in which windows and door of the house of the petitioner are not shown to be opening into the said passage. In the said Site Plan, it is also shown that disputed passage is not the only ingress and outgress of the residential house of the petitioner; and that there is another passage approximately 1'6" inches wide from which petitioner can approach his residential house. Further, petitioner had failed to produce any documentary evidence to show that disputed passage is a common passage which was being used by both, the petitioner and the respondents. It is noted by the Civil Judge (Junior Division), Amritsar in his order dated 09.10.2023 that *"Rather, the plaintiff has admitted the fact that the defendants have locked the main gate of the said private passage which prima facie shows that the defendants are in exclusive possession of this alleged common passage and hence, no relief can be granted by this court to the plaintiff regarding this passage because the balance of convenience tilts in favour the defendants, regarding this passage."*

7. Needless to say, the above factors as stated by the petitioner and as recorded in the impugned orders are disputed questions of fact which will be determined by the learned Trial Court upon leading of evidence. However, for the purposes of grant of ad interim injunction, petitioner has been unable to make out a prima facie case or demonstrate balance of convenience or even irreparable loss and harm in his favour.



8. As such, I find no ground is made out to interfere in the impugned orders. The present Civil Revision Petition is accordingly **dismissed.**

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

12.11.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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