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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3525-2026

Date of Decision: 04.05.2026

GRAM PANCHAYAT VILLAGE DAROLI KHERA

..... Petitioner

Versus

SHISHAN KUMAR AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Rakesh Kadyan, Advocate
for the petitioner.

YASHVIR SINGH RATHOR, J. (Oral)

1. This revision petition is directed against the judgment dated 11.12.2025 passed by the Court of Additional District Judge, Jind, vide which the application under Order 39 Rule 1 and 2 CPC moved by the plaintiff-respondent has been allowed, while setting aside the order dated 30.04.2024 (Annexure P-10) passed by the learned Civil Judge (Jr. Divn.), Narwana, in ***Civil Suit No.187 of 2024*** titled as '***Shishan Kumar Vs. Gram Panchayat Daroli Khera and others***', vide which the application under Order 39 Rule 1 and 2 CPC was dismissed.

2. Case of the plaintiff is that he is owner in possession of the suit property measuring 910.748 sq. yards. As per the Haryana Government policy, a sale deed has been executed in his favour, on the basis of which he claims ownership and possession of the suit property. He has constructed a boundary wall on a part of the land and the



remaining land has been left vacant. However, the defendants now intend to construct a street/gali over a portion of the suit property without any right, title, or interest, while claiming themselves to be owners of the same, whereas they have no document of title in their favour. Since the plaintiff is the owner in possession of the suit property, he cannot be forcibly dispossessed and a prayer has been made to restrain the defendants from constructing any street/gali on the suit property.

3. Defendants, in their written statement as well as reply to the application have refuted the contents of the plaint and have taken a plea that the plaintiff is the owner in possession of land measuring 772 sq. yards instead of 910.748 sq. yards. Infact, he got the sale deed of land measuring 910.748 sq. yards executed in connivance with the Panchayat Secretary and when this fact came to the knowledge of the Gram Panchayat, it approached the BDPO. However, no such option was available on the portal to get the land separated and as such, the entire land has been transferred in the ownership of the Gram Panchayat. It has been admitted that the plaintiff has constructed a boundary wall over some portion of the land. However, the remaining land belongs to the Gram Panchayat and the plaintiff has no concern with the same and the defendant Gram Panchayat has a right to raise construction over the land.

4. After hearing learned counsel for the parties and going through the record of the case, the learned Trial Court dismissed the application under Order 39 Rule 1 and 2 CPC.

5. Feeling aggrieved, the plaintiff preferred a civil miscellaneous appeal, which has been allowed by the Court of the learned Additional District Judge, Jind, vide order dated 11.12.2025.



6. Feeling aggrieved, the appellant-defendant has preferred the present revision petition. Learned counsel for the petitioner has been heard and the material on file has been perused.

7. Learned counsel for the petitioner argued that the First Appellate Court has reversed the well-reasoned order of the trial Court without assigning any cogent reasons. Learned counsel further contended that the Appellate Court has very limited jurisdiction to interfere in the refusal or grant of temporary injunction by the trial Court and that such interference is permissible only if the order passed by the trial Court is absolutely perverse or illegal. The Appellate Court should be slow in upsetting/varying the findings of the trial Court on an order passed on the application under Order 39 Rule 1 and 2 CPC and should not substitute its own opinion for that of the trial Court. Learned counsel further argued that the petitioner owns 772 sq. yards of land out of the total land measuring 910.748 sq. yards and that he got the sale deed executed in his favour in connivance with the Panchayat Secretary. When this fact came to the knowledge of the Gram Panchayat, they approached the BDPO and since there was no provision on the portal to get the land separated, the entire land has been transferred in the ownership of the Gram Panchayat. Learned counsel further argued that since the plaintiff owns only 772 sq. yards of land, the petitioner has the right to construct a street/gali over the remaining land owned by it. Learned counsel prayed that the impugned order be set aside and the present revision be accepted.

8. However, I do not find any force in the contentions raised by learned counsel for the petitioner and the petition in hand is liable to be dismissed.



9. Hon'ble Supreme Court in 2002 (3) RCR (Civil) 648, ***"Pradeep Anand Vs. I.T.C. Ltd."*** has held that the grant of interim stay under Order 39 Rule 1 and 2 CPC is a matter of discretion of the Court and if the trial Court on consideration of facts passes the order of stay, the Appellate Court should be slow to interfere with the same but that does not mean that if the order of the stay passed by the trial Court is based on non-judicial considerations, such order is not liable to be interfered with by the Appellate Court. A similar view has been taken by a Co-ordinate Bench of this Court in 1989 PLJ 160, ***"Charan Dass Vs. Municipal Committee, Samana and Another"*** wherein it has been held that the Appellate Court should be slow to interfere in the order granting temporary injunction under Order 39 Rule 1 and 2 CPC unless the Court finds that the order passed by the trial Court is perverse or patently illegal or is without jurisdiction. Hon'ble Supreme Court in 2006 (4) CCC 584, ***"M. Gurudas and Others Vs. Rasaranjan and Others"*** has held that finding on a prima facie case is a finding of fact and Court while arriving at a finding of fact must arrive not only that a case for triable issue has been made out but also that the other factors requisite for grant of injunction exist.

10. As per Citizen Resources Information Department (CRID), Government of Haryana, property ID No.600270250, the total area of the land is 910.748 sq. yards. As per the version of the defendant-petitioner, it was got prepared by the plaintiff in collusion with the survey team, but he owns only 772 sq. yards of land, which measures East 85 ft., West 86.8 ft., North 73 ft. and South 89 ft. Plaintiff had got included the area meant for the passage/rasta in the entire land which is going towards



village Bhagwanpura and when it came to the knowledge of the Gram Panchayat, it raised an objection and now the entire land measuring 910.748 sq. yards has been recorded in the ownership of the Gram Panchayat. However, the petitioner-Gram Panchayat has not produced any document to show its ownership of the suit property. The learned Appellate Court has observed that the Trial Court has relied upon one judgment dated 30.04.1963, but its perusal shows that the plaintiff's brother and their forefathers were not parties in that suit and the suit land was not part of the previous Civil Suit which was decided in the year 1963. On the other hand, the plaintiff has produced documents in respect of the ownership of the land measuring 910.748 sq. yards along with his brother. No documentary evidence has been produced by the defendants to show that the plaintiff is the owner of 772 sq. yards only or that the remaining land measuring 183.748 sq. yards is owned by the Gram Panchayat. If there is any discrepancy in the area of the suit land, then the defendants should get the record of ownership of the suit property corrected, but in the absence of any document of title, defendant has no right to interfere in the peaceful possession of the plaintiff over the suit property. As such, plaintiff has got a *prima facie* case in his favour. He will suffer an irreparable loss and injury and the balance of convenience is also in his favour, as he is recorded to be owner in possession of the suit property and the learned Appellate Court set aside the order dated 30.04.2024 passed by the Trial Court. As such, the learned Trial Court had, thus, failed to exercise the discretion vested in it on sound judicial principles, while the learned Appellate Court, by way of a well-reasoned order, has rightly set aside the order passed by the Trial Court on the



application under Order 39 Rule 1 and 2 CPC. There is, thus, no reason to take a contrary view and to interfere with the impugned order.

11. Resultantly, no interference in the judgment dated 11.12.2025 is called for and the petition in hand is ordered to be dismissed.

12. Pending misc. application (s), if any, shall also stand disposed of.

(YASHVIR SINGH RATHOR)
JUDGE

04.05.2026
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No