

**CR-3741-2026**

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****130****CR-3741-2026****Date of decision: 04.05.2026****PADAM KUMAR TYAGI****...PETITIONER****VERSUS****ANIL JHA AND OTHERS****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR****Present :** Ms. Tuneet Walia, Advocate for the petitioner.**YASHVIR SINGH RATHOR**

1. This revision petition is directed against the order dated 27.02.2026 (Annexure P-4) passed by the learned Civil Judge (Junior Division), Faridabad vide which an application under Order VII Rule 11 Code of Civil Procedure, 1908, moved by the defendant No.1/petitioner has been dismissed.
2. By way of application under Order VII Rule 11 C.P.C., defendant No.1/petitioner contended that the suit is not maintainable. Plaintiff has not approached the Court with clean hands and he has suppressed true facts and the suit is manifestly vexatious, meritless and does not disclose any cause of action. Infact, the suit has been filed by the plaintiff for declaration and consequential relief of mandatory injunction qua the suit property which is not owned by him but by his mother as has also been mentioned in the plaint. It is only the mother Smt. Indra Devi who could have instituted the suit and she has not given any authority to the plaintiff to file the present suit. The plaintiff has also impleaded Commissioner, Municipal Corporation of Faridabad and Deputy Commissioner, Faridabad as defendants in their personal capacity. There is non-compliance of Section 80 C.P.C. as no notice has been served upon them prior to institution of the suit. In the

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present suit, plaintiff is claiming right to park his vehicle in the passage which has been illegally possessed by defendant No.1 and in these circumstances, he should have instituted a suit for possession instead of simplicitor suit for declaration and injunction. It has been prayed that the plaintiff has no right to sue and no cause of action has arisen in his favour and the plaint be thus rejected.

3. Plaintiff filed reply to the application submitting that the application is an abuse of process of law. It has been denied that true facts have been concealed. Plaintiff asserted that he has a direct interest in the suit property and the common passage, which has given rise to a valid cause of action and prayed for dismissal of the application.

4. Learned Trial Court after appreciating the material on file dismissed the application vide impugned order dated 27.02.2026.

5. Feeling aggrieved, the present petition has been instituted. I have heard the learned counsel for the petitioner/revisionist and have gone through the material on record.

6. As per version of the plaintiff/respondent, his mother purchased the first floor in House No.305, IP Colony, Faridabad, in the year 2012 and the seller had provided them a space for parking one car on the ground floor and he has always been parking his car in the driveway on the ground floor where space for parking six cars is available. However, defendant No.1, who is residing on the ground floor started claiming the entire vacant space on the ground floor and refused to allow the plaintiff to park his car. Complaints were made to the police but to no avail. Thereafter, defendant No.1 alongwith defendant No.2 has installed an iron gate within the building premises illegally and forcibly on the common passage. By way of present suit, a declaration has been sought to the effect that the

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iron gate installed by the defendant No.1 is an illegal construction and defendant No.2 (RWA) be directed not to interfere in the possession of the plaintiff and be directed to take action against defendant No.1 for installing illegal iron gate and defendants No.3 and 4 be also directed to remove the said iron gate.

7. It is well settled that while deciding an application under Order VII Rule 11 CPC, only the averments in the plaint and documents annexed therewith are to be taken into consideration to find out whether the plaint discloses a cause of action or not or whether the same is barred by any law. The defence taken by the defendant or the documents relied upon by him cannot be taken into consideration. In the present suit, the plaintiff has come to the Court with a specific stand that his mother had purchased the first floor in the suit property and the seller had also sold them a space for parking one car on the ground floor, where six vehicles can be parked. Now, defendant No.1 is interfering in the usage of the common passage by them and has installed an iron gate to deprive them from using the parking space. A declaration has been sought to the effect that the gate installed by the defendant No.1 is an illegal construction and a decree for mandatory injunction has also been sought for its removal. As such, plaint certainly discloses a valid cause of action and the same does not appear to be barred by any law. The mother of the plaintiff is the owner of the first floor and since defendant No.1 is not allowing the plaintiff to use the parking space, he can sue to seek an injunction and from the facts disclosed in the plaint, it cannot be inferred that the plaintiff has concealed or suppressed any facts. So far as the non-joinder of necessary parties and issuance of notice under Section 80 of CPC is concerned, it is a matter between the plaintiff and the defendants No.3 and 4 i.e. Commissioner, Municipal Corporation, Faridabad and Deputy Commissioner,

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Faridabad and the plaintiff can seek the desired relief against defendant No.1 without serving any notice upon them. Learned Trial Court has also appreciated the facts of the case and the material on file in the correct perspective while dismissing the application and the impugned order thus does not suffer from any manifest error or material illegality so as to call for any interference in the exercise of revisional powers under Article 227 of the Constitution of India.

8. In view of the aforesaid discussion, the present petition being meritless is ordered to be dismissed.

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

04.05.2026

Vishal Vardhan

**(YASHVIR SINGH RATHOR)
JUDGE**

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