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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-2922-2025(O&M)

Date of decision : 09.12.2025

Umed Singh and others

... Petitioners

Versus

Pardeep Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Shailendra Jain, Senior Advocate with
Mr.Munish Kumar, Advocate
for the petitioners.

Dr.Anmol Rattan Sidhu, Senior Advocate with
Mr.Punyaveer, Advocate
for the respondent.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 04.04.2025 (Annexure P-12) passed by the Additional Civil Judge (Sr.Div.), Hisar, vide which the application filed by the petitioners for providing police help for removing pillars from the passage in question and for complying with the injunction order dated 31.05.2023, has been dismissed.

ARGUMENTS ON BEHALF OF THE PETITIONERS

2. Learned senior counsel for the petitioners has submitted that in the present case, the petitioners have filed a suit for permanent injunction



restraining the respondent (defendant) from demolishing, blocking, encroaching, making any hindrance in the passage of 2 karam which is existing on the southern doll of khasra no.6/21, 22, 23, 24/1, 24/2, 25 and northern doll of sanctioned drain comprised in khewat no.8 and 2 as per jamabandi for the year 2021-22 situated at village Hindwan Tehsil and District, Hisar which is running at the spot since 07.03.1961. It is submitted that along with the said suit, an application under Order 39 Rules 1 and 2 CPC was filed by the petitioners which was dismissed by the trial Court vide order dated 12.05.2023 and that against the order dated 12.05.2023, the petitioners had filed an appeal and the said appeal was allowed by the Ist Appellate Court vide order dated 31.05.2023 and a positive injunction was granted in favour of the petitioners. It is argued that against the said order, a revision petition i.e., CR-5715-2023 was filed by the respondent herein and the said revision petition was dismissed by the Co-ordinate Bench of this Court vide order dated 06.05.2024.

3. It is submitted that in spite of the fact that the petitioners have a positive injunction in their favour, the respondent has violated the same and erected pillars and also left water in the passage in question and damaged the same on the night of 09/10.06.2023 and thus, the petitioners were forced to file an application for providing police help for removing the pillars from the passage in question. It is further fairly submitted that the petitioners had also filed an application under Order 39 Rule 2-A CPC which is still pending for adjudication. It is argued that instead of allowing the



application and enforcing the injunction in favour of the petitioners, the trial Court vide order dated 04.04.2025 had dismissed the application filed by the petitioners for providing police help. It is submitted that the said order is against settled law. In support of his arguments, learned senior counsel for the petitioners has relied upon the judgment of the Co-ordinate Bench of this Court passed in the case of *Ishwar and others vs. Asha Ram and others* reported as *2015(3) PLR 578* and in the case of *Ashish Munjal vs. Ashok Kumar and another* reported as *2020(4) RCR (Civil) 544*. It is prayed that the impugned order be set aside and the application be allowed.

ARGUMENTS ON BEHALF OF THE RESPONDENT

4. Learned senior counsel for the respondent, on the other hand, has opposed the present petition and has submitted that the impugned order dated 04.04.2025 which has been passed by the trial Court dismissing the application filed by the petitioners for providing police help has been rightly passed and deserves to be upheld. It is submitted that the petitioners have already filed a contempt petition under Order 39 Rule 2-A CPC and thus allowing the present application for providing police help would be pre-judging the said application under Order 39 Rule 2-A CPC and would prejudice the rights of the respondent. It is submitted that it is only after evidence is led in the said application under Order 39 Rule 2-A CPC that it can be affirmatively confirmed as to whether the present respondent caused any breach of the injunction order or not and allowing the application for providing police help under Section 151 CPC would amount to pre-judging



the matter. It is submitted that the application for providing police help was misconceived and deserves to be dismissed and has been rightly dismissed vide the impugned order dated 04.04.2025.

ANALYSIS AND FINDINGS

5. This Court has heard learned senior counsel for the parties and has perused the paper book and is of the opinion that the present revision petition filed by the petitioners is meritorious and deserves to be allowed and the impugned order dated 04.04.2025 passed by the trial Court is illegal and deserves to be set aside for the reasons detailed hereinafter.

6. It is not in dispute that the petitioners had filed a suit for permanent injunction with the following prayers:-

“It is, therefore, prayed that the suit of the Plaintiffs may kindly be decreed with costs and a decree for permanent injunction (mandatory and prohibitory) to the effect that the defendant be restrained from demolishing, blocking, encroaching, making any hindrance in the free passage of 2 Karam which is existing on the southern doll of Khasra No.6/21, 22, 23, 24/1, 24/2, 25 and northern doll of sanctioned drain comprised in Khewat No.8 and 2 as per Jamabandi for the year 2021-2022 situated at village Hindwan Tehsil and District Hisar which is fully shown in the attached rough site plan with red colour which is being running at the spot since 07.03.1961 and the plaintiffs have acquired the easementary rights and if the defendant succeed in removing or blocking the passage in question during the pendency of present suit then the defendant be directed to restore the passage in question and further the defendant be also restrained from alienating



the passage in question, be passed in favour of the Plaintiffs and against the defendant. Any other relief for which the Plaintiffs is found entitled be also granted to him.”

7. Vide order dated 26.04.2023, the trial Court had appointed a Local Commissioner to visit the suit land / spot and to give a report regarding existence of the rasta/ passage or water course at the spot. The Local Commissioner has submitted his report dated 08.05.2023 in which it was stated that there was an existing passage and the details of the said passage had also been mentioned. A perusal of the report dated 08.05.2023 (Annexure P-5) would show that notice was issued to both the parties and both the parties were present and the said parties also identified / confirmed the suit land at the spot. The relevant portion of the said Local Commissioner's report is reproduced hereinbelow:-

“That on 01.05.2023 the undersigned reached at the spot at 4:30 PM, where the Halqa Patwari namely Naresh Kumar was found preset alongwith both the parties and many other persons. The undersigned prepared a attendance sheet and obtained their signature on attendance sheet, the same is attached herewith and Halqa Patwari identified the suit land i.e. Khasra no. 6//21,22,23,24/1,24/2,25 and confirm by both parties after that the undersigned prepared a rough site plan of suit land/spot in which the Rasta/Passage and Water Course existed and also taken a nakal/copy of Aksh-Shizra as per revenue record prepared by Halqa Patwari of the above said Khasra no. After that the undersigned prepared a rough report and clicked some photographs of suit land/spot and same are attached herewith.



After inspecting the spot the undersigned prepared a final report as following :-

The undersigned inspected the spot and found that there is a existing Passage/Rasta adjacent to the field of Khasra No. 6//21,22,23,24/1,24/2,25 and 5//21 and the southern side of Passage there is a Water Course/Khal. The said Passage about 2 Karam (11 feet) vide and 6" to 12" above the level of adjacent field Khasra no. 6//21,22,23,24/1,24/2,25 and 5//21.

It is therefore prayed that the rough site plan, photographs prepared by undersigned and copy of Akash-Shizra prepared by the Halqa Patwari also may kindly be read as a part of this report and also be submitted the report.

Thanks

*Sachin Siwach, Advocate
(Appointed as Local commissioner)*

Enclosed herewith:-

- i. Attendance Sheet*
- ii. Rough Site Plan*
- iii. Photographs*
- iv. Nakal/Copy of Aksh-Shizra"*

The rough site plan, photographs and a copy of Aksh-Shizra prepared by the Halqa Patwari were also annexed along with the Local Commissioner's report and the same has also been annexed along with the present petition. A perusal of the rough site plan as prepared by the Local Commissioner, which has been annexed at page 38 of the paper book, would show that there is a passage in the suit land along with water course / khal. The existence of the passage is also apparent from the photographs



which have been taken by the Local Commissioner.

8. Along with the suit filed by the petitioners, an application under Order 39 Rules 1 and 2 CPC had also been filed and after the written statement was filed by the respondent, the trial Court dismissed the said application under Order 39 Rules 1 and 2 CPC vide order dated 12.05.2023. It is not in dispute that against the said order, an appeal was filed before the Ist Appellate Court and the Ist Appellate Court vide order dated 31.05.2023 allowed the said appeal and gave a positive injunction in favour of the petitioners. The relevant portion of the order dated 31.05.2023 is reproduced hereinbelow:-

“15. In view of above discussion there is no doubt that the plaintiffs have prima-facie case in their favour. Further, as per case of the plaintiffs, if their application for temporary injunction is not allowed they shall not be able to access their land and cultivate the same. As observed above, it is not shown by the defendants that the plaintiffs have any other passage to access their land. Thus, if the present application is not allowed, the plaintiffs shall suffer an irreparable loss whereas no such loss is being suffered by the defendant. Heavens will not fall if the plaintiffs are permitted to use the said passage till the suit is finally adjudicated. As such, balance of convenience also lie in favour of the plaintiffs.

16. Having regard to the aforesaid, the present civil miscellaneous appeal is allowed and the impugned order dated 12.05.2023 is set aside. During the pendency of the suit, the defendant is hereby restrained from demolishing, blocking, encroaching and making any hinderance in the rasta as mentioned in the plaint and as is also depicted in the rough



site plan prepared by Local Commissioner. Memo of cost be prepared. Trial court file with a copy of judgment be sent back to the court concerned. Appeal file be consigned to the record room after due compliance.”

9. The respondent filed civil revision i.e., CR-5715-2023 challenging the order dated 31.05.2023 which was dismissed by the Co-ordinate Bench of this Court vide order dated 06.05.2024 and the said order has been annexed as Annexure P-9 along with the present revision petition. In paragraph 15, the Co-ordinate Bench of this court had rejected the arguments raised on behalf of the respondent that the petitioner (plaintiff) had created such rasta by ploughing tractor constantly. It was observed that the petitioners had prima-facie case in their favour and the passage in question is the only passage for ingress/outgress for the land of the petitioners and thus, balance of convenience was in their favour and the petitioners would also suffer irreparable loss if they were not allowed to access their land by using the passage in dispute. Paragraph 15 of the said order passed by the Co-ordinate Bench of this Court is reproduced hereinbelow:-

*“15. It has also been rightly observed that this contention of the defendant that the plaintiffs have created such Rasta by ploughing tractor constantly, cannot be appreciated at this stage without the cogent evidence, which is yet to be adduced and the same is a matter of trial. **When as per report of the Local Commissioner, the said passage is about 2 Karam (11 feet) wide, 6” to 12” above the level of adjacent fields, so***



prima facie, it does not appear that the said passage could have been created by ploughing tractor constantly. The plaintiffs are claiming the passage on the basis of oral family settlement as well as on the basis of easementary rights which will be decided during the trial. But at this stage, a prima facie case is made out in favour of the plaintiffs. As it is the only passage for ingress/outgress for the land of the plaintiffs, so the balance of convenience also lies in favour of the plaintiffs and plaintiffs shall suffer an irreparable loss if they are not allowed to have access to their land by using the passage in dispute.”

10. An application for providing police help was filed by the petitioners for removing the pillars from the passage in question and also to remove any hindrance which was created by the respondent in the free passage of question and a further prayer was made in the application for compliance of the injunction order dated 31.05.2023 in letters and spirit. A perusal of the said application dated 08.08.2023 (Annexure P-10) would show that it was the specific case of the petitioners that the respondent who was well aware of the injunction order, had on the night of 09/10.06.2023, illegally and malafidely, left the water on the passage in question and damaged the same with the sole intention to make hindrance in the passage in question. Paragraph 2 of the said application, which is relevant for consideration, is reproduced hereinbelow:-

*“2. That the respondent is clever, cunning and having scant respect for the law of the land and **he was well aware about the passing of the order but in the night of 9-10 June, 2023***



the respondent illegally and malafidely left the water in the passage in question and damaged the same with the sole intention to make hindrance in the passage in question, so that the petitioners could not pass his tractor, agriculture equipment from the passage in question. The petitioners requested the respondent not to take the law in his hands and not to leave the water in the passage in question as the court has already granted injunction order in favour of the petitioner but the respondent stated that he has no care for the orders of the Hon'ble courts.”

11. Additionally it was averred in the application dated 08.08.2023 that the petitioners had moved an application to the SHO, Police Station Sadar Hisar and also to the SSP, Hisar but the injunction order has not been complied with till date. Along with the said application, the petitioners had annexed the photographs of the pillars which have been erected by the respondent after the injunction order and also of the paddy crop which was sown by the respondent in the passage in question, to cause obstruction. The said application was opposed by the respondent. The learned trial Court vide impugned order dated 04.04.2025 had rejected the said application primarily on the ground that the petitioner had also filed an application under Order 39 Rule 2-A CPC which required the evidence to be led in order to come to a conclusion as to whether there was disobedience of the injunction order and that allowing the said application for police help would amount to prematurely deciding the application under Order 39 Rule 2-A CPC. The said order is against law and deserves to be set aside.



12. A Coordinate Bench of this Court in the case of *Ishwar and others* (Supra) had observed that there was a distinction between punitive action to be taken resulting from breach of an order passed by the Court and enforcement of the said order and that every person was duty bound and under obligation to comply with the order passed by the Court and no one could be permitted to take law in his own hands and the Court has inherent powers to come to rescue of a person who, in spite of an order of injunction in his favour, was being threatened so as to violate the said order and that the Court had inherent power to grant police help to prevent violation of the interim injunction or to enforce an injunction order. It was observed that the Court is not to wait till the time injunction is actually violated and the application under Order 39 Rule 2A CPC is finally decided, as sanctity of the orders of the Court has to be maintained. Relevant portion of the said judgment is reproduced hereinbelow:-

“4.The application seeking police help to protect the possession was filed by the petitioners as their possession was sought to be interfered with. The same was declined by the learned court below by passing a rypitic order. This court had opined that where found appropriate, police help should be granted to enforce an injunction order. It had further been opined that it would be a total misconstruction of the provisions of the Code of Civil Procedure to hold that in case an injunction order has been passed in favour of a party, he should wait till such time the same is flouted and then adopt the procedure provided under Order 39 Rule 2A CPC. There is a distinction between punitive action resulting from breach



of an order passed by the court and enforcement of the order. Every person is duty-bound and under obligation to comply with and/or ensure compliance of the order passed by the court, unless varied or set aside. No one can be permitted to take law in his own hands and violate the orders passed. The courts having inherent powers should come to the rescue of a person, who in spite of an order of injunction is being threatened with forcible dispossession in violation of the order. The court under its inherent power can very well grant police help to prevent violation of the interim injunction.

*5. In the case in hand, the stand of the petitioners is that despite interim injunction granted by the trial court restraining the respondents defendants from interfering into their cultivating possession of the suit land, which was upheld by the learned lower appellate court, **their possession was being interfered with by the respondents.** The stand of the respondents is that in fact, the land is shamlat. There are 786 co-sharers. **They are not interfering in the possession of the petitioners. Be that as it may, the grievance of the petitioners is that their possession, which has been directed to be protected by the courts below, vide interim injunction order passed in their favour, is sought to be disturbed. The court is not to wait till such time the injunction is violated and the party in whose favour the order has been passed is pushed to the wall only letting him to file application under Order 39, Rule 2A CPC seeking punishment for violation of the injunction order. Sanctity of the orders of the court has to be maintained. They are meant to be complied with in true letter and spirit. Any one aggrieved can avail of appropriate remedy against the order. Once it is final, none can be allowed to question the same by taking law into his own hands.***



6. For the reasons mentioned above, the present petition is allowed. The impugned order passed by the court below is set aside. The application filed by the petitioners seeking police help to protect their possession on the suit property is allowed. Petition allowed.”

13. Similarly, another Coordinate Bench of this Court in the case of ***Ashish Munjal*** (Supra) had observed that merely because an aggrieved party has right to file an FIR or has a locus to file an application complaining violation of the interim order under Order 39 Rule 2A CPC, the aggrieved party would not be debarred from filing an application for grant of police help. It was further observed that the jurisdiction under Order 39 Rule 2A CPC is for punishment and the same cannot debar the Court which granted injunction to pass appropriate orders in the facts of the case. The relevant portion of the said judgment is reproduced hereinbelow:-

“8. This Court has heard learned counsel for the parties and with their able assistance, gone through the documents filed. A Civil Court has the jurisdiction to get its interim orders implemented. Merely because aggrieved party has filed an FIR or has a locus to file application complaining violation of interim order, does not debar the aggrieved party to file an application for grant of police help.

9. Hence, the learned Trial Court erred in dismissing the application on the ground that defendant-petitioner has filed FIR and has a remedy complaining violation under Order 39 Rule 2-A CPC. The aforesaid jurisdiction is for punishment, however, it does not debar the Court which granted injunction to pass appropriate orders in the facts of the case.”



14. The law laid down in the abovesaid judgments would apply on all fours, in the present case. It is a matter of settled law that once positive injunction has been granted by the Court, then, it is the duty of the Court to enforce the same. A perusal of the averments made in the application for police help along with photographs annexed with the said application, seen in the light of the positive injunction granted in favour of the petitioners and also the report of the Local Commissioner would show that the petitioners are in need for grant of police help so as to use the passage, which has been prima facie opined in the proceedings under Order 39 Rules 1 and 2 CPC to be the only ingress towards the land of the petitioners and to enforce the injunction in favour of the petitioners. The respondent or any other person cannot be permitted to make the Court orders ineffective only on account of the pendency of the proceedings under Order 39 Rule 2A CPC, which may take a long time before being finally adjudicated, as the same would require leading of evidence. Moreover, in the proceedings under Order 39 Rule 2A CPC, the issue that would primarily arise is as to “whether the respondents/defendants are to be punished for violation of the interim order?”, whereas issue in the application for seeking police help is to seek implementation of the injunction order passed. Thus, the reasons given in the impugned order and the arguments raised on behalf of the respondent in support of said order are misconceived.

15. Keeping in view the above said facts and circumstances, the present revision petition is allowed and the impugned order dated

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04.04.2025 is set aside and the application dated 08.08.2023 (Annexure P-10) filed by the petitioners for police help is allowed and the SHO, Police Station Sadar Hisar is directed to provide necessary police help to implement the order dated 31.05.2023 which has been upheld by the Coordinate Bench of this Court vide order dated 06.05.2024, in accordance with law.

(VIKAS BAHL)
JUDGE

December 09, 2025.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No