



CR-6333-2025 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CR-6333-2025 (O&M)
Decided on :- 10.09.2025**

Ravinder

....Petitioner

VERSUS

Gram Panchayat Pawta and Others

....Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Prateek Kumar Jha, Advocate and
Mr. Manan Gera, Advocate for the petitioner.

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MANDEEP PANNU J.

1. The present civil revision petition under Article 227 of the Constitution of India has been filed by the petitioner challenging the order dated 12.08.2025 passed by the learned Additional District Judge, Faridabad in Civil Miscellaneous Appeal, whereby the CMA preferred by the petitioner against the order dated 02.08.2025 of the learned Civil Judge (Jr. Divn.), Faridabad came to be dismissed and the application under Order 39 Rules 1 & 2 CPC for ad interim injunction was declined.

Brief Facts

2. The petitioner/plaintiff is a resident of Village Pawta and has been residing in Khasra No. 8//18 for over five decades along with his family and aged relatives. The house of the petitioner directly adjoins Khasra No. 71.

3. It is submitted by the petitioner that traditionally and by long usage, cremations of residents of Village Pawta were being conducted since 1999 at Khasra No. 23/2 (village Pakhal), which was accepted by the village as the designated cremation ground. By a resolution dated 07.12.2018, Gram Panchayat, Pawta (respondent no.1) purported to mark Khasra No. 71 as a new cremation



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ground. It is alleged that this resolution was passed mechanically, without prior public consultation and without environmental impact assessment. On learning of the resolution, the petitioner made representations to the competent authorities complaining of the unlawful resolution and seeking suspension of the same and/or relocation of cremation activity. The petitioner specifically submitted a representation under Section 47 of the Haryana Panchayati Raj Act, 1994 requesting that the resolution be suspended and that the matter be considered by the appropriate authority.

4. It is further alleged that on 18.07.2025 a cremation was carried out at Khasra No. 71. Thereafter the petitioner's family has alleged unbearable hardship caused by pollution, thick smoke, foul smell and toxic fumes arising out of open burning of corpses at the said spot. The petitioner has placed on record medical prescriptions and other documents which, according to him, show that the health of the petitioner and his family has been adversely affected. The petitioner approached the Hon'ble High Court by filing Civil Writ Petition No. 21584/2025. By order dated 30.07.2025 the High Court disposed of the writ petition directing the concerned authority (District Development & Panchayat Officer or other competent authority) to consider the representation dated 21.07.2025 filed by the petitioner under Section 47 of the Haryana Panchayati Raj Act and to decide the same within a period of two months from the date of the order.

5. Notwithstanding the aforesaid, the Gram Panchayat is alleged to have accelerated construction and cremation activity at Khasra No. 71. The petitioner instituted a civil suit (bearing CIS No. CS-3711-2025) for permanent injunction restraining the Gram Panchayat and others from conducting cremations, raising construction or carrying out related activity at Khasra No. 71. Along with the suit,



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the petitioner filed an application under Order 39 Rules 1 & 2 read with Section 151 CPC seeking interim injunction restraining respondents from carrying out any cremation, construction or related activity at Khasra No. 71 during the pendency of the suit.

6. The injunction application was dismissed by the learned Civil Judge (Jr. Divn.), Faridabad vide order dated 02.08.2025. Being aggrieved, the petitioner preferred Civil Miscellaneous Appeal before the learned Additional District Judge, Faridabad.

7. Learned Additional District Judge affirmed the order of the learned trial Court. The learned Appellate Court noted *inter alia* that Khasra No. 71 had been recorded as belonging to Gram Panchayat and used *as gair mumkin shamshan* in revenue record; similar suits against Gram Panchayat challenging the creation of cremation facility in Khasra No. 71 had been filed earlier and had been dismissed by competent courts (the appellate court referred to earlier proceedings and their dismissal); Section 91 CPC (dealing with public nuisances) and the law relating to maintenance of suits affecting the public were relevant and the civil suit filed by a lone individual, without leave of court as contemplated by Section 91, raised maintainability issues; and the petitioner had filed the civil suit on 01.08.2025 without awaiting the decision of the competent authority in pursuance of the High Court's direction dated 30.07.2025. The learned Appellate Court held that the petitioner had not made out the requisite *prima facie* case, balance of convenience or irreparable injury to justify grant of interim injunction. The appellate court therefore dismissed the appeal vide order dated 12.08.2025 and upheld the order dated 02.08.2025.



8. Feeling aggrieved by the said order, the petitioner has filed the present revision petition under Article 227 of the Constitution of India.

9. Learned counsel for the petitioner has submitted that the impugned orders of the Courts below suffer from non-application of mind and misinterpretation of facts and law. The courts below failed to appreciate the medical prescriptions and other documentary evidence placed on record which prima facie establish that the petitioner and his family are suffering serious health hazards as a consequence of cremation activity at Khasra No. 71.

10. He further submits that the learned trial and Appellate Courts wrongly emphasized procedural or maintainability objections (such as invocation of Section 91 CPC) while ignoring the grave threat to health, environment and life caused by open burning and toxic emissions from the cremation activity. Section 91 CPC is not a straightjacket and is not intended to oust the rights of an aggrieved person to seek preventive relief under Order 39 Rules 1 and 2 CPC. The Appellate Court's reliance upon Section 91 CPC as a bar to the suit of the petitioner suit is misplaced since the present suit seeks to restrain public nuisance in the vicinity of the petitioner's house and the petitioner has pleaded special damage and irreparable injury. The Gram Panchayat passed the resolution dated 07.12.2018 in a mechanical manner, without public consultation and without environmental or health impact assessment, and the respondent authorities have failed to consider the petitioner's representation in an effective manner despite directions by this Court in writ proceedings. On the facts and materials on record a prima facie case is made out, the balance of convenience lies in favour of the petitioner and grievous irreparable damage will be caused to petitioner's health and well-being if interim relief is not granted.



11. I have considered the submissions of learned counsel for the petitioner and perused the record, including the plaint, the injunction application, the orders of the courts below, the representation dated 21.07.2025, the order of this Court in the writ proceedings dated 30.07.2025, and the documents and medical prescriptions placed on record by the petitioner.

12. The courts below adverted to Section 91 CPC which deals with suits for public nuisance and other wrongful acts affecting the public. Where a suit affects public rights or is in the nature of relief for public nuisance, the statutory scheme contemplates that such suits are maintainable in the manner prescribed by Section 91. The appellate court recorded the existence of earlier litigation and found that earlier litigants had challenged the same resolution and those proceedings had been dismissed. The appellate court's consideration of maintainability was therefore tied to facts on record and to earlier adjudications. Section 91 is not an absolute bar but where a single individual seeks relief on a matter which prima facie affects the public at large, the court may examine maintainability in accordance with settled law. In the present case, the appellate court considered the pleadings and earlier litigation and arrived at the conclusion that maintainability and the factual matrix did not favour interim relief in the hands of the petitioner.

13. It is also relevant that the petitioner had filed writ proceedings and that this Court had directed the competent authority to consider the petitioner's representation and decide the same within two months. The petitioner, despite this direction and the availability of the administrative remedy, instituted the civil suit on 01.08.2025 and pressed for interim relief on 02.08.2025. The appellate court



took note of this procedural sequence and understandably treated the petitioner's haste with circumspection.

14. The grant of interim injunction requires the petitioner to establish a triad a prima facie case, balance of convenience in his favour, and the prospect of irreparable injury if relief is denied. Having examined the record and the concurrent findings of the courts below, this Court finds that the appellate court's conclusion that the petitioner had not established the requisite triad is supportable on the material placed before the lower courts. The appellate court addressed the documentary record, the history of prior litigation and the pendency of administrative consideration. No manifest perversity or non-application of mind is demonstrated in the appellate court's reasoning.

15. The Appellate Court has referred to earlier suits and appeals filed against Gram Panchayat's action to create/mark Khasra No. 71 as a cremation ground and recorded that those proceedings resulted in dismissal. The petitioner omitted to bring these prior adjudications to the fore in the manner necessary to dislodge the conclusions of the courts below. Concealment or non-disclosure of material earlier proceedings is a factor which weighs against a petitioner seeking urgent equitable relief.

16. The Appellate Court placed reliance on revenue record showing Khasra No. 71 as owned/used by Gram Panchayat and recorded the same as gair mumkin shamshan. If the land is, as recorded, in the ownership/possession or use of Gram Panchayat, the petitioner's contention of proprietary or exclusive right to restrain public use requires stronger and clearer proof.



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17. For the reasons stated above, the concurrent orders of the learned trial Court and the learned Appellate Court declining interim injunction are not shown to be vitiated by perversity, mala fides, or jurisdictional error.

18. The learned Appellate Court has applied relevant considerations i.e. maintainability, prior proceedings, pendency of administrative remedy and the materials on record and reached a conclusion which this Court is not inclined to disturb in exercise of supervisory jurisdiction under Article 227.

19. Accordingly, this Court is of the considered view that the present civil revision petition does not merit interference with the impugned concurrent orders dated 02.08.2025 passed by the learned trial Court and 12.08.2025 passed by the learned Appellate Court.

20. The civil revision petition is dismissed. However, it is made clear that nothing stated in this order shall have any bearing on the merits of the civil suit filed by the petitioner

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

September 10, 2025
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No