



CR-6434-2025 (O&amp;M)

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

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**CR-6434-2025 (O&M)  
Date of decision :23.09.2025**

**RAGHBIR SINGH****... PETITIONER****VERSUS****RISHI PAL VERMA AND OTHERS****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL**

Present: Mr. Gagandeep Rana, Advocate  
for the petitioner.

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**PARMOD GOYAL, J.**

1. The present petition has been preferred by petitioner-defendant No. 1, who is aggrieved by the order dated 28.08.2025 (Annexure P-7), passed by the learned Civil Judge (Junior Division), Gurugram. Vide impugned order, the Court of first instance had directed the implementation of the interim injunction earlier granted vide order dated 23.08.2024 and police aid was granted for removal of any encroachment over the common passage.

2. The impugned order dated 28.08.2025 was passed on an application preferred by the plaintiff-respondent under Section 151 of the Code of Civil Procedure (CPC), seeking police assistance for removal of alleged encroachment made in violation of the injunction order dated 23.08.2024.

3. Learned counsel for the petitioner has challenged the impugned order on the following twin grounds:

(i) That the Court of first instance could not have proceeded under



Section 151 CPC, and any action for alleged disobedience of the injunction order could have only been taken under Order XXXIX Rule 2-A CPC.

(ii) That the Court of first instance failed to conduct any proper inquiry to establish that the petitioner had committed any encroachment after the passing of the injunction order dated 23.08.2024. It is asserted that the direction for removal of the iron gate, as per the said order, has already been duly complied with by the petitioner (Defendant No. 1).

4. On 23.08.2024, the following order was passed:

*“...Hence, in light of the discussion made above and authorities cited, this Court is satisfied that a fit case for grant of injunction to the plaintiff is made out and as a result, the defendants are directed to remove the iron gate blocking the free ingress and outgress of the common rasta admeasuring 24 feet and the defendants are also restrained from making any encroachment over the said common passage of 24 feet till the disposal of suit. The plaintiff is entitled to seek the aid of police for removal of any encroachment from the common rasta as per the terms of compromise marked as Ex.C-1. Consequently, the present application Under Order 39 Rule 1 & 2 CPC is hereby allowed...”.*

5. The plaintiff-respondent had filed a suit for permanent injunction, wherein it was alleged that a public street/common rasta exists adjacent to the property owned by the plaintiff-respondent. It was further asserted that the defendant-petitioner had intentionally and willfully encroached upon the said 24-foot wide common rasta by constructing a wall in the middle of the rasta, and also



by erecting a toilet and bathroom thereon.

6. The matter was subsequently compromised between the parties, as recorded vide Exhibit C-1, wherein the defendant-petitioner agreed to maintain 24-foot wide rasta free from any encroachment.

7. Pursuant to the passing of the injunction order, and with the assistance of the police, the wall constructed in the middle of the common rasta, as well as the iron gate, were removed in compliance with the said order.

8. Thereafter, the plaintiff-respondent filed another application seeking police assistance for the removal of any alleged encroachment made by the defendant-petitioner over the entire 24-foot wide rasta, as depicted in the site plan marked as Ex. C-2.

9. This application was vehemently opposed by the defendant-petitioner (Defendant No. 1), who prayed for its dismissal on the ground that the said application was a pressure tactic and has been camouflaged as a plea for enforcement of interim injunction orders.

10. It was submitted by the petitioner that the injunction orders were passed on the basis of a compromise, duly recorded and marked as Ex. C-1, wherein both parties had mutually agreed to maintain a common passage measuring 24 feet wide, free from any encroachment. The petitioner asserted that he had already complied with the terms of the compromise and the injunction order.

11. The Court found that the defendant-petitioner had failed to rebut the allegations of construction over the 24-foot wide rasta, and accordingly allowed the application, granting police assistance for the removal of any encroachment over the common passage.

12. First objection taken by petitioner that the Court could not have



granted police aid for restoration of the rasta and could only have acted under the provisions of Order XXXIX Rule 2-A CPC is totally fallacious. Where an injunction is breached by the defendant-petitioner, the Court may proceed against such party under Order XXXIX Rule 2-A CPC for committing contempt of Court. However, apart from fixing liability for disobedience of its orders, the Court is also duty-bound to ensure due compliance with its orders by restoring the status quo ante as it existed on the date of the injunction.

13. Thus, the Court is vested with twin remedies where its order is violated:

- (1) To fix the liability of the defaulter and punish him for contempt;  
and
- (2) To restore the status quo ante as of the date of passing of the injunction order.

14. Both remedies can be invoked simultaneously or sequentially, as the circumstances warrant. Therefore, no fault can be found with the impugned order dated 28.08.2025 (Annexure P-7). The action of the Court of first instance in ensuring compliance with its injunction order by restoring the status quo ante is, therefore, fully in accordance with law.

15. The second issue raised by the petitioner in the present case is that no construction falls within the 24-feet wide common gali, and therefore, the order passed by the learned Court of first instance is without any basis.

16. It is the primary duty of the petitioner to demonstrate that the 24-feet common gali/street is free from encroachment, as claimed by him. However, the petitioner has failed to produce any material to establish that the learned Court of first instance erroneously ordered restoration of the status quo ante. Photographs annexed with petition cannot be relied without verification.



17. Since it is the duty of the Court to ensure that the property of the parties is not disturbed in the garb of violation of the Court's orders, it would be appropriate to direct that, while demolishing any encroachment over the 24-foot common street with police assistance, due demarcation shall be carried out to avoid any error by the authorities in the removal process. The demarcation and removal of encroachments shall be conducted sequentially on the same day: first, the demarcation shall be carried out; and, in the event any encroachment is found to have been made by the defendant-petitioner, such encroachment shall be removed in accordance with the orders dated 28.08.2025.

18. The present petition is accordingly dismissed with the above observations.

19. Pending miscellaneous application(s), if any, shall also stand disposed of.

23.09.2025  
manoj

**(PARMOD GOYAL)**  
**JUDGE**

Whether speaking/reasoned	Yes
Whether reportable	Yes/No