

(1988) 07 P&H CK 0003
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 3616 of 1986

Surjan Singh

APPELLANT

Vs

M/s Hamdarad Foundary and Workshop, East Mohan Nagar,
Amritsar

RESPONDENT

Date of Decision : 19-07-1988

Acts Referred:

Citation : (1988) 2 RCR(Rent) 529

Hon'ble Judges : Amrit Lal Bahri, J

Bench : Single Bench

Advocate : M.L. Sarin, with Mr. A.S. Grewal, for the Appellant; Ashok Bhan with Mr. A.K. Mittal, for the Respondent

Final Decision : Dismissed

Judgement

A.L. Bahri, J.—This revision petition has been filed by Surjan Singh defendant against order dated October 29, 1986, passed by the Additional District Judge, Amritsar, accepting the appeal filed by the plaintiff by setting aside the order of the trial Court. An ad in-terim injunction was issued to the defendant during pendency of the suit.

2. In order to appreciate the facts, a plan submitted by the parties has been perused. One shed and open space was let out by the petitioner to the respondent M/S Hamdard Foundary and Workshop. The approach to the tenanted premises is through a passage about (sic) feet from the main road from the Southern side. At the main road there is a gate fixed at the passage the width of which is 11/12 feet. This passage, the petitioner wanted to reduce by two feet and to raise construction on the open space belonging to him. A suit was brought by M/S Hamdard Foundary and Workshop-the tenant, for the grant of permanent injunction restraining the present petitioner from narrowing the passage by making the construction. The trial Court granted temporary injunction which was afterwards vacated on May 31, 1986. The plaintiff M/S Hamdard Foundary and Workshop took an appeal to the Additional District Judge, Amritsar, which was

allowed.

3. It has been argued on behalf of the petitioner, owner of the premises that he has absolute right to construction over the plot belonging to him and the tenant could not object the same. A clause in the rent note was also read out that 8 feet passage towards East (wrongly mentioned as East) was to be left and the owner could raise construction on the open space. There was no absolute right to the tenant to use the passage and the owner could reduce the width of the same. I am afraid there is no merit in these contentions. It is undisputed that the respondent is a tenant of the shed and the open space where he is running his Foundary. In the course of his business, he is to bring raw material and take out the finished goods sometimes in trucks and sometimes in carts. Even if the original width of the passage is taken as 11" x 19" the truck and the cart had to return in reverse as there is no space in front of the tenanted premises for taking a turn. Since there is no other passage to the tenanted premises the tenant has the right to use this passage to approach the tenanted premises. At this stage, there is no reason to come to a contrary finding as recorded by the lower appellate Court that the tenant would suffer an irreparable loss and inconvenience if the owner is allowed to raise construction and reduce the width of the passage. As there is no illegality or irregularity of procedure to call for interference with the order of the lower appellate Court, the revision petition is hereby dismissed. The trial Court is directed to dispose of the suit which is stated to be at ripe stage, within two months if possible. There will be no order as to costs.