

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

(115)

**CR No.4657 of 2015 (O&M)
Decided on: July 27, 2015.**

Kuldeep Singh Dhindsa and others

.... Petitioners

Versus

Municipal Committee, Shahbad Markanda and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Jagdish Manchanda , Advocate,
for the petitioners.

M.M.S. BEDI, J (ORAL)

This is plaintiff's revision petition against interim order dated 14.07.2015 by virtue of which the defendant-respondents Municipal Committee, Shahbad Markanda has been directed not to raise the level of road/street more than 3-1/2 inches.

Learned counsel for the petitioners submits that the plaintiff-petitioners have filed the suit and vide order dated 10.07.2015 the trial Court had restrained the defendants No. 2 and 3 from laying cement blocks in the road/street. The effect of interim injunction passed on 10.07.2015 has been diminished with the subsequent order dated 14.07.2015. Counsel for the petitioners submits that the trial Court has not considered the pleadings and the material made available on record to arrive at a prima facie conclusion regarding the rights of the plaintiff-petitioners for the purpose of deciding application under Order 39 Rules 1 and 2 CPC.

I have heard learned counsel for the petitioners. It is within the jurisdiction of the trial Court to pass any interim order and vary the same in the light of Order 39 Rule 4 CPC on an application filed by any party dissatisfied with said order. It is apparent that the application under Order 39 Rules 1 and 2 CPC has not been finally decided. Any order passed in application under Order 39 Rules 1 and 2 CPC is an appealable order under Order 43 Rule 1 (r) CPC. A perusal of the said provision indicates that any order passed in the exercise of powers under Order 39 Rule 4 CPC is also an appealable order. The plaintiff-petitioners have also maintained an application under Order 39 Rules 4 CPC before the trial Court besides availing the remedy under Order 43 Rule 1 (r) CPC.

This petition is disposed of as not maintainable without expression of any opinion with liberty to the petitioners to avail alternative remedy as mentioned hereinabove.

(M.M.S. BEDI)
JUDGE

July 27, 2015
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