

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

121

CR-4665-2022

Date of decision: 21.10.2022

Amit and another

.....Petitioners

Versus

Rakesh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Abhinav Sood, Advocate for
Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Saurabh Dalal, Advocate
for respondent No.1.

MANJARI NEHRU KAUL, J. (ORAL)

The instant revision petition under Article 227 of the Constitution of India has been filed for setting aside the order dated 12.10.2022 (Annexure P-5) passed by learned Additional District Judge, Jhajjar vide in the appeal preferred by the respondent/plaintiff against the order dated 04.10.2022 of the trial Court ad-interim injunction has been granted.

Learned counsel appearing for the petitioners *inter alia* contends that the Lower Appellate Court by way of the impugned order has virtually decided the suit in question at this stage. Learned counsel submits that the application under Order 39 Rules 1 and 2 CPC was still pending adjudication before the Trial Court, therefore, the learned Lower Appellate Court has grossly erred in passing the impugned order which would affect the outcome of the said application. Learned counsel further submits that on the one hand the Lower Appellate Court observed that the wall in dispute was not a common wall, however, on

the other hand still went ahead and granted ad-interim injunction.

I have heard learned counsel and perused the relevant material on record.

In view of the fact that the application under Order 39 Rules 1 and 2 CPC filed by the respondent/plaintiff is still pending adjudication, this Court would desist from delving into the merits of the case at this stage. The revision petition stands disposed of with direction to the trial Court to decide the application under Order 39 Rules 1 and 2 CPC filed by the respondent/plaintiff expeditiously preferably on or before the next date of hearing in accordance with law, without being influenced by the order passed by the Lower Appellate Court.

The operation of impugned order shall remain in abeyance till the decision of the application under Order 39 Rules 1 and 2 CPC.

21.10.2022
Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No