



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

121

CR-2940-2026

Date of Decision: 26.05.2026

BHUPINDER KAUR AND OTHERS**..... Petitioners****VERSUS****RAJESH KUMAR AND OTHERS****..... Respondents****CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

Present : Mr. Parminderjeet Singh Khurana, Advocate
for the petitioners.

Mr. Akshay Bhan, Senior Advocate with
Mr. Sumit Kalra, Advocate and
Mr. H.V. Gupta, Advocate for respondents/Caveator.

YASHVIR SINGH RATHOR, J.

1. This revision petition has been preferred against the order dated 19.01.2026 (Annexure P-1) passed by the Court of learned Civil Judge (Jr. Divn.), Ludhiana, whereby the trial Court has recalled the *ex parte* order of injunction passed by the Court and vacated the same in terms of Order 39 Rule 4 CPC.

2. I have heard learned counsel for the parties and have gone through the material on record.

3. Petitioners/plaintiffs instituted a suit and vide order dated 09.12.2025, the trial Court directed the parties to maintain status quo with regard to nature of suit property till the next date of hearing. However, vide impugned order dated 19.01.2026, the trial Court set aside its own



order dated 09.12.2025 and vacated the interim stay while exercising powers under Order 39 Rule 4 CPC.

4. Before proceeding further, it is relevant to mention here that any order passed under Order 39 Rule 4 CPC is appealable under Order 43 CPC. As per Section 104 of CPC, an appeal lies from the following orders, and save as otherwise expressly provided in the body of this Code or by any law for the time being in force, from no other orders:

(i) any order made under rules from which an appeal is expressly allowed by rules.

Order 43 Rule 1 says that: An appeal shall lie from the following orders under the provisions of Section 104 namely;

(r) An order under Rule 1, Rule 2, Rule 2A, Rule 4 or Rule 10 of Order 39.

5. As such, the remedy with the petitioners is to file an appeal before the Court of District Judge. In AIR 2000 (SC) 3032, **A. Venkatasubbiah Naidu Vs. S. Chellappan**, an *ex parte* injunction was granted and the defendants in that suit challenged the order of grant of *ex parte* injunction before the High Court by way of a revision petition under Article 227 of the Constitution of India and the Hon'ble Supreme Court held that when remedy of appeal is available under a statute, revision petition should not have been entertained by the High Court under Article 227 of the Constitution of India and it has been observed as under:-

“19. Now what remains is the question whether the High Court should have entertained the petition under Article 227 of the Constitution when the party had two other alternative remedies. Though no hurdle can be put against the exercise of the



constitutional powers of the High Court it is a well-recognized principle which has gained judicial recognition that the High Court should direct the party to avail himself of such remedies one or the other before he resorts to a constitutional remedy. The learned Single Judge need not have entertained the revision petition at all and the party affected by the interim ex parte order should have been directed to resort to one of the other remedies. Be that as it may, now it is idle to embark on that aspect as the High Court had chosen to entertain the revision petition.”

6. A Co-ordinate Bench of this Court in 2021 AIR Punjab and Haryana 137, **Ram Kumar and ors. Vs. Narayani Devi and ors.**, has also held that the scope of interference by the Court under Article 227 of the Constitution of India is restricted and in case alternative remedy of appeal is available, the power of superintendence is to be exercised sparingly only in appropriate cases and since plaintiff has got an alternative remedy to file an appeal against the order passed on the application under Order 39 Rule 1 and 2 CPC, revision petition is not maintainable.

7. Resultantly, the petition in hand is ordered to be dismissed. However, there shall be no bar for the petitioners to file an appeal before the appropriate Court.

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

(YASHVIR SINGH RATHOR)
JUDGE

26.05.2026
Priyanka Thakur

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No