UKHC010173592026

2026:UHC:9989

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (M/S) No. 3047 of 2026

Virender Kohli and others .....Petitioners

Versus

Dharmendra Kumar Singh ....Respondent

Present:

Mr. Shankar Aggarwal, Advocate, holding brief of Mr. Navneet Kumar, Advocate for the petitioners.
None for the respondent.

Hon'ble Ravindra Maithani, J.

The challenge in this petition is made to the order dated 27.08.2026, passed in Original Suit No. 461 of 2026, Dharmendra Kumar Singh Vs. Virendra Kohli and others, by the court of Civil Judge (Senior Division), Dehradun ("the suit"). By it, in a suit filed by the respondent *ex-parte* injunction was granted and the petitioners were restrained from raising the level of pathway. The petitioners have been issued notice.

2. Heard learned counsel for the parties and perused the record.

3. It has been the case of the respondent that he has constructed a house 3 feet above the pathway, but in his absence, the petitioners have started raising the level of pathway by using JCB, etc. due to which the level of the pathway is rising above the house of the respondent. In this context that on the date of institution, *ex-parte* injunction was granted.

4. Learned counsel for the petitioners submits that the respondent has constructed his house at a low level, the colony is at a higher level and the parties have easement right and due to this interim order, grave difficulty is being faced by the petitioners. Hence, the order requires modification.

5. By the impugned order, the court had not determined the rights of the parties. Based on the averments, that were made in the plaint, *ex-parte* injunction order has been granted. As stated, it is the case of the respondent that his house was constructed 3 feet above the pathway, but now the petitioners are raising the level of the pathway, due to which, the pathway would be at higher level than the house of the respondent and it may be inconvenient to him.

6. If the petitioners have been issued notice, they have every opportunity to approach the court concerned for seeking adjudication of the temporary injunction application on merits for its variation, modification, etc. whatsoever.

7. When these lines were dictated, learned counsel for the petitioners submitted that the court below may be directed to expedite the dispose of temporary injunction application.

8. Order 39 Rule 3A of the Code of Civil Procedure, 1908 mandates that in case, *ex-parte* injunction is granted, it should be decided within a time frame. The Court may only invite the attention of the court below to the statutory provisions so that all endeavours be made to decide the ex-*parte* injunction application as expeditiously as possible.

9. With these observations, the writ petition stands disposed of.

(Ravindra Maithani, J.)
31.10.2026

Jitendra