

**ORDER SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

C.R. No.319/2019  
Muhammad Rafiq Chouhan and others  
Versus  
CDA through Chairman and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	31.07.2019	Mr. Muhammad Waqas Malik, Advocate for the petitioners.

Through the instant civil revision petition, the petitioners impugn the judgment dated 25.07.2019, passed by the Court of the learned Additional District Judge, Islamabad, whereby the petitioners' appeal against the order dated 26.09.2018, passed by the Court of the learned Civil Judge, Islamabad, was dismissed. Vide the said order dated 26.09.2018, the learned Civil Court dismissed the petitioners' application under Order XXXIX, Rules 1 and 2 C.P.C. filed along with their suit for declaration, mandatory and permanent injunction.

2. Learned counsel for the petitioners submitted that the petitioners are residents of land situated in *khasra* Nos.608, 609, 621 and 909 in Mouza Mohriyan, Islamabad; that since several decades, the petitioners had been using the path on respondent No.3's property; that the petitioners had easement rights over the said path; that respondent No.3 had developed a housing project by the name of Park Enclave on the land over which the path in question is located; that an affidavit had been given by the Naib Tehsildar of Capital Development Authority ("C.D.A.") deposing that the petitioners had easement rights over the path of land owned by respondent No.3; and that if the petitioners were stopped from using the path in question, they

would suffer irreparably. Learned counsel for the petitioners prayed for the revision petition to be allowed and for the concurrent judgments/orders passed by the learned Courts below to be set-aside.

3. I have heard the contentions of the learned counsel for the petitioners and have perused the record with his able assistance.

4. The petitioners essentially want a passage through the land on which respondent No.3 is establishing a gated/walled housing project. It is an admitted position that the layout plan for the said housing project has been approved by the C.D.A. It is also admitted that the path which the petitioners want to use is within the layout plan for the housing project. In this view of the matter, I do not find any jurisdictional irregularity in the concurrent orders passed by the learned Courts below dismissing the petitioners' application for interim injunction. It will be for the Trial Court to determine during the evidence as to whether the path in question had been used for decades, as asserted by the petitioners.

5. In view of the above, I do not find any merit in this petition, which is accordingly dismissed in limine.

**(MIANGUL HASSAN ÀURANGZEB)**  
**JUDGE**

Ahtesham\*