

JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Civil Revision No. 375/2019.

Grace Valley (Pvt.) Ltd., etc.

Versus

M/s Irshad Associates through its Chief Executive.

Petitioners by: Ch. Muhammad Asad Raan, Advocate.

Respondent by: Ch. Naseer Ahmad Gujjar, Advocate.

Date of Decision: 28.02.2020.

MOHSIN AKHTAR KAYANL J:- Through this Civil Revision, the petitioners have assailed the order dated 27.07.2019, passed by learned Additional District Judge (East), Islamabad, whereby application U/O XXXIX Rule 1 & 2 CPC filed by respondent was allowed.

2. Learned counsel for the petitioners contends that respondent has filed a suit for permanent injunction alongwith application U/S 151 CPC mainly on the ground that petitioner intends to encroach upon the land owned by respondent defined in part-III of the plaint; that learned trial Court has rejected the application for injunctive relief, whereas Appellate Court has allowed the same without considering the fact that present petitioner has nothing to do with the suit land and any observations passed in this regard will effect the rights of petitioners; that respondent has already erected his wall upon its land and the petitioners' land is situated in Khasra No.369, Mouza Rawat, Islamabad and the respondent always interfered into lawful construction and working of the petitioners and as such this aspect has not been appreciated by the Appellate Court.

3. Conversely, learned counsel for the respondent contends that respondent is owner in possession of the land situated in Khasra No.370, Mouza Rawat and has nothing to do with the petitioners' property which is situated in Khasra No.369,

Mouza Rawat whereas land belonging to respondent has been protected through separate wall and appellate Court has rightly passed the order of protection of respondent's right.

4. Arguments heard, record perused.

5. Perusal of record reveals that respondent filed suit for permanent injunction for protection of his property situated in Khasra No.370, Mouza Rawat, whereas petitioners are owner of land situated in Khasra No.369, Mouza Rawat, which is different property and when he was confronted regarding the relief claimed by the respondent, learned counsel for the petitioners categorically contends that petitioners do not interfere in the land of respondent, nor they allow respondent to interfere in their land and this stance has been acknowledged by the respondent in open Court, therefore, order impugned by the petitioners stands upheld and as such the very basis of instant civil revision has lost its character.

6. The petitioners have failed to demonstrate any illegality in the impugned order especially when irreparable loss and balance of convenience lies in favour of respondent. In such eventuality learned Appellate Court has rightly passed the order in terms of Order XXXIX Rule 1 & 2 CPC. Even otherwise, the suit is fixed for recoding of evidence and all other question could only be adjudicated after recording of evidence. Therefore, instant civil revision is misconceived and the same is hereby **dismissed**.

(MOHSIN AKHTAR KAYANI)
JUDGE

Zahid