

**IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL**

ON THE 13TH DAY OF AUGUST, 2021

BEFORE:

HON'BLE SHRI JUSTICE MANOJ KUMAR TIWARI

WRIT PETITION (M/S) NO. 439 OF 2012

BETWEEN:

Kanti Devi ... Petitioner
(None present for the petitioner)

AND:

Manish Singh & another ... Respondents
(By Mr. I.P. Kohli, Advocate)

WITH
WRIT PETITION (M/S) NO. 255 OF 2012

BETWEEN:

Smt. Manisha Singh & another ... Petitioners
(By Mr. I.P. Kohli, Advocate)

AND:

Smt. Kanti Devi ... Respondent
(By Mr. Siddhartha Singh, Advocate)

JUDGMENT

1. Smt. Kanti Devi filed a suit for injunction in the court of Civil Judge (S.D.), Dehradun, which was registered as Original Suit No. 486 of 2011. She also filed an application seeking temporary injunction, which was rejected by learned trial court vide order dated 17.12.2011.

2. Against the rejection order, Smt. Kanti Devi filed miscellaneous appeal under Order 43(1)(r) of C.P.C. Her appeal was partly allowed by learned District Judge vide judgment and order dated 20.01.2012.

3. Smt. Manisha Singh (*defendant No. 1 in the suit*), filed an application seeking review of the judgment dated 20.01.2012 passed by learned appellate court. Her review application was rejected by learned District Judge, Dehradun vide order dated 02.03.2012.

4. Smt. Kanti Devi has challenged the order dated 02.03.2012 passed by learned District Judge on the review application. Smt. Manisha Singh (*defendant No. 1 in the suit*), however, has challenged the judgment and order dated 20.01.2012 passed by learned District Judge, whereby Miscellaneous Civil Appeal No. 133 of 2011, filed by the plaintiff (Smt. Kanti Devi) was partly allowed.

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

6. Learned District Judge has considered all the relevant factors, namely, *prima facie* case, balance of convenience & irreparable injury and has partly allowed the appeal filed by Smt. Kanti Devi. Thus, there is no scope for interference with the judgment dated 20.01.2012.

7. Even otherwise also, grant of temporary injunction is discretionary, therefore, this Court does not find any reason to interfere with the discretion exercised by learned District Judge in favour of the plaintiff.

8. In such view of the matter, WPMS No. 255 of 2012 is dismissed.

9. The scope of review is very limited. The review jurisdiction can be exercised only when there is error apparent on the face of record, as provided under Order 47 of C.P.C. Since there was no error apparent on the face of the record, therefore, learned District Judge, was justified in rejecting the review application. Thus interference of this Court is not warranted in the matter.

10. Accordingly, WPMS No. 439 of 2012 is also dismissed.

(MANOJ KUMAR TIWARI, J.)