

Savita Sharma Vs. Chander Kant & Ors.

**CMPMO No.371/2024**

28.06.2024 Present: Mr. Navneet Kumar Bhalla, Advocate, for the petitioner.

Mr. Varun Chandel, Mr. L.N. Sharma, Additional Advocates General with Ms. Leena Sharma, Deputy Advocate General, for respondents No.2 and 3.

**CMPMO No. 371/2024**

Notice. Mr. L.N. Sharma, learned Additional Advocate General, accepts notice on behalf of respondents No.2 and 3. Issue notice to respondent No.1, returnable for 04.09.2024, on taking steps with a week.

**CMP No. 10013/2024**

Notice in the aforesaid terms.

Learned counsel for the petitioner/applicant has submitted that without there being prayer of any of the parties, learned First Appellate Court while hearing the appeal preferred by the plaintiff against the order passed against him under Order 39 Rules 1 and 2 CPC has granted an opportunity to him to create and collect evidence regarding physical existence of path, its location and its identification, which respondent No.1 (plaintiff) had failed to prove before the learned Trial Court with cogent evidence. That there was no occasion to collect evidence for respondent No.1(plaintiff) to fill up the lacuna in his case.

In view of above submissions, impugned order dated 13.06.2024 passed by learned First Appellate Court , is

stayed till the next date of hearing. It is however clarified that this Court has only stayed the operation of impugned order dated 13.06.2024 and the proceedings in the appeal may continue.

List on 04.09.2024.

**Jyotsna Rewal Dua  
Judge**

28<sup>th</sup> June, 2024  
(rohit)