

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 18068/2024

Girraj Singh Son Of Shri Jadveer Singh @ Raghuveer Singh

-----Petitioner

Versus

Ramesh Chand Son Of Shri Jagan Prasad

-----Respondent

For Petitioner(s) : Mr. Deepak Sharma

For Respondent(s) :

HON'BLE MR. JUSTICE BIPIN GUPTA

Order

27/04/2026

1. Learned counsel for the petitioner submits that the suit was instituted by the petitioner, wherein a counterclaim was filed by the defendants. The learned Trial Court, vide judgment dated 12.12.2023, dismissed the suit; however, the counterclaim of defendant Nos. 2 and 3 was partly allowed.

2. Learned counsel further submits that, against the said judgment, the plaintiff-petitioner has preferred an appeal, along with an application under Order 39 Rule 1 and 2 read with Order 41 Rule 5 CPC, seeking interim protection.

3. Learned counsel for the petitioner further submits that the learned First Appellate Court has rejected the said application vide order dated 18.01.2022. Learned counsel contends that, pursuant thereto, the defendants have initiated execution proceedings in respect of the decree passed in their favour on the basis of the counterclaim. He further contends that, if the decree is executed, the petitioner's first appeal—being a statutory right, would be rendered infructuous.

4. Learned counsel further submits that the decree in question is one of mandatory injunction, and if the same is executed during the pendency of the appeal, no effective relief would survive for adjudication in the appellate proceedings.
5. Heard.
6. Let notices be issued to respondent(s). Rule is made returnable within two weeks.
7. '*Dasti*' permitted.
8. In the meantime, execution of the decree dated 12.12.2023 shall remain stayed till the next date of hearing.
9. However, it is made clear that the learned First Appellate Court shall remain at liberty to decide the appeal in accordance with law, and this interim order shall not come in the way of such adjudication.
10. List this matter after two weeks.

(BIPIN GUPTA),J