

**RSA No. 4666 of 2015**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**RSA No. 4666 of 2015(O&M)**

**Date of Decision: December 03, 2015**

**Balwinder Singh & another**

**...Appellants**

**vs.**

**Jaspal Singh & another**

**.... Respondents**

**CORAM: HON'BLE MR. JUSTICE KULDIP SINGH**

**Present:** Mr. Rahul Sharma, Advocate  
for the appellants.

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

**Kuldip Singh J.(Oral)**

Impugned in the present judgment and decree dated 18.04.2015 passed by learned Additional District Judge, Patiala affirming the judgment and decree dated 08.11.2013 passed by learned Civil Judge (Junior Division) vide which the suit of the plaintiff for mandatory injunction restraining the defendants from forcibly removing the main gate fixed at point GH in wall AB of the house of the plaintiff was dismissed and counter claim filed by the respondent-defendant was allowed and the plaintiffs were directed to remove

illegal obstruction raised by then at point BD as shown in the site plan and were also restrained from making any further encroachment by way of raising any illegal and unlawful obstruction in the brick paved street except in due course of law.

I have heard learned counsel for the appellants and have also gone through the case file very carefully.

A perusal of judgment of both the Courts below show that according to the plaintiffs a wall and the gate exist in the disputed site and that defendant wants to remove it. The defendant on the other hand claimed that there is a street which is an access to their other house and in the street there is a drain and that the plaintiff constructed the wall and fixed the gate before filing the suit and thereafter, filed the suit. The lower Court on the basis of admission of the plaintiff in cross examination came to the conclusion that the gate and wall were constructed immediately before the filing of the suit and thereafter the suit was filed to get injunction. Local commissioner was also appointed in this case who visited the spot. The lower Court has also examined the report of the local commissioner to hold that there is a street along with the drain and a fresh gate has been constructed by the plaintiff. It being so, that the suit of the plaintiff was dismissed and counter claim was decreed.

I am of the considered view that findings of facts have been recorded by both the Courts below regarding the existence of

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the street and the fact that plaintiff constructed a fresh wall and affixed the gate and tried to misuse the process of the Court by filing the present suit.

It being so, no substantial question of law arises. Hence, the appeal is dismissed.

**December 03, 2015**  
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**(KULDIP SINGH)**  
**JUDGE**