

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 269 of 2006**

1. Shri Shankerjee Hanumanjee Trust Through Shri Ram Bishal Sonkar, s/o. Keshvram @ Bhadduram Sonkar, Managing Trustee, Tiloo Chowk, Purani Basti, Raipur, Teh. & Distt. Raipur, Chhattisgarh
2. Shri Ratnu Sonkar, aged about 68 yrs, s/o. Kashiram Sonkar r/o. Sonkar Para Purani Basti Raipur Teh. & Distt. Raipur, Chhattisgarh
3. Shri Kailash Sonkar, s/o. Gendlal Sonkar, President Sonkar Samaj, Sonkar Para, Raipur, Teh. & Distt. Raipur, Chhattisgarh

---- Appellants
(Defendants)

Versus

Smt.Kamla Bai Agrawal, w/o. Shri Narayan Agrawal, r/o. house no. 29/206, Lohar Chowk, Purani Basti, Raipur, Teh. & Distt. Raipur, Chhattisgarh

---- Respondent
(Plaintiff)

For Appellants/ Defendants	:	Mr. Umesh Verma, Advocate
For Respondent	:	Mr. Rajkumar Pali with Mr. Amit Kumar Sahu, Advocates

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

24.07.2019

1. Heard on admission and formulation of substantial question of law in this second appeal preferred by the appellants/ defendants.
2. Mr. Verma, learned counsel for the appellants/ defendants would submit that both the Courts below are absolutely unjustified in granting decree of mandatory injunction in favour of plaintiff/ respondent. It is

perverse and contrary to the record, it also gives rise to substantial question of law for determination.

3. I have heard learned counsel for the appellants/ defendants, considered his submissions made hereinabove and went through the records with utmost circumspection.
4. Plaintiff Smt. Kamlabai Agrawal filed a suit for mandatory injunction that the suit 'gali' is owned by her, in which, the defendants have opened a window and door due to which her privacy is getting interfered with, therefore, by mandatory injunction, it be directed to be closed, which the first appellate Court accepted by affirming the decree granted by the trial Court. The first appellate Court also agreed with the judgment and decree passed by the trial Court.
5. The two Courts below have clearly held that the suit 'gali' is owned by the plaintiff and the defendants have no right to open door and window in the said suit 'gali', as such, that interferes with the privacy of the plaintiff and thereby, granted mandatory injunction in favour of plaintiff to close the window and door opened towards suit 'gali'. The above-stated finding recorded by the two Courts below is the finding of fact based on evidence available on record. It is neither perverse nor contrary to the record. I do not find any illegality or perversity in the said finding. Even I do not find any substantial question of law for determination in this second appeal.
6. Accordingly, the second appeal deserves to be and, is hereby dismissed. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge