

site plan was produced by respondent no. 1 in her plaint itself.

In view of the above, there is no merit in the application and the same is accordingly dismissed.

Main Appeal :

Respondent no.1 filed a suit seeking therein permanent injunction to restrain the appellant and respondent no.2 from using the street marked as ABCD in the site plan attached with the plaint as also not to interfere in the peaceful use of the said street by her. Mandatory injunction was also sought to direct the appellant as also respondent no.2 to reconstruct the wall at point AB in the aforesaid site plan, which, according to respondent no. 1, had illegally and forcibly been demolished by the appellant and respondent no.2.

The case set up by respondent no.1/plaintiff before the Trial Court was that through a sale deed dated 14.06.2013, she had purchased a plot measuring 02 biswas from Paramjeet Kaur which had been carved out of Khasra No. 872, which was earlier owned by one Mahipal. A street ABCD, as shown in the site plan attached to the plaint, had been left by Mahipal for the use of plot owners, who had purchased plots in Khasra No. 872 and whose plots fell on either side of that street. After purchasing the aforesaid plot, respondent no. 1 constructed her house thereupon. The appellant and respondent no. 2, through sale deed dated 11.03.1983, had purchased one bigha of land from one Tuman son of Hari Singh which had been carved out of Khasras No. 873 and 874. Appellant's property was towards the western side of Khasra No. 872 and there was a road on the

no. 2. On point AB, a boundary wall had been constructed by respondent no. 1, which according to her, was illegally demolished by the appellant and respondent no. 2 and in its place, they have installed a gate for their illegal access on to the street ABCD.

On being put to notice, the appellant and respondent no. 2 appeared before the Trial Court and filed their written statement, through which, they denied that there was any boundary wall on point AB. They further submitted that they had installed a gate at point AB for access to the street ABCD which was a public street owned and maintained by the Gram Panchayat and was the only approach to their house. It was further submitted that respondent no. 1 had filed the suit only with an attempt to grab the aforesaid street.

The Trial Court sifted the evidence led by both the parties and decreed respondent no. 1's suit. The appellant challenged such decree by way of an appeal which was dismissed by the Appellate Court giving a cause to the appellant to knock the doors of this Court through the present second appeal.

Learned counsel for the appellant, by referring to the site plan, has submitted that ABCD was in fact a public street owned and being maintained by the Gram Panchayat and therefore, access of the same to the appellant could not have been denied. It was further submitted that the aforesaid passage was being used by the appellant since the year 1983 without any objection by any party and on this ground also, the present appeal was liable to succeed.

counsel for the appellant, no merit is found in the same.

A perusal of the record reveals that Khasra No. 872 was owned by one Mahipal, who had sold distinct plots to different individuals and that the street ABCD had been carved out of the aforesaid Khasra No.872 for the use by land/plot owners of that Khasra No. only.

ABCD is on the eastern side of the appellant's property. However, even in the appellant's sale deed, the boundary given on the eastern side is the house of Mahipal and not any public street.

No evidence was produced by the appellant to show that the street in question was a common street which belonged to the Gram Panchayat. In fact, the appellant himself admitted in his cross-examination that the street in question was earlier owned and possessed by Mahipal from whom Paramjeet Kaur has purchased the plot which was later sold by her to respondent no.1.

In view of the above, the concurrent findings of fact recorded by the Trial Court as also the Appellate Court warrant no interference. No question of law, much less a substantial question of law, arises for consideration.

Dismissed.

(DEEPAK SIBAL)
JUDGE

January 18, 2019

monika

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>