

Regular Civil Suit No. 39 of 1984 for removal of encroachment on the approach road was dismissed by the trial Court on 29.11.2005. The appellate Court has dismissed Civil Appeal No. 169 of 2008 on 03.12.2011. Both the Courts have concurred in holding that the encroachment on the road has not at all been established. The plaintiff relied upon the report of the Cadestral Surveyor and it is considered by both the Courts below. The Courts have held that though the report and the map indicate encroachment on the property belonging to the plaintiff, the encroachment on the road has not been established. It further holds that the encroachment in question on the basis of the map produced by the Cadestral Surveyor cannot be

substantiated.

The learned counsel for the appellant submits that the road in question is a part and parcel of the property i.e. Gat No. 218 and that is what is mentioned in the sale deed. Neither the original sale deed nor its copy is produced on record. There is no pleading in the plaint that the portion of the road forms part and parcel of Gat No. 218.

In view of this, no substantial question of law arises for consideration in this second appeal, the second appeal is dismissed.

Needless to say that the plaintiff is at liberty to file separate suit for removal of encroachment, if any, on land Gat No. 218 and none of the findings recorded by the Courts below shall come in the way of the plaintiff.

(R.K.DESHPANDE, J.)