

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Second Appeal No.624/2012

**(Sau. Pushpa Rambhau Sakharkar and another .vs. Sau. Kantabala wd/o
Deviprasad Nashine and ors.)**

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders.

Mr. Pankaj Tidke, Advocate for Appellant.
Mr. A.V. Muley, Advocate for Respondents 2 & 3.

CORAM : A.V. Nirgude, J.
DATED : March 18, 2015.

This appeal challenges the concurrent findings recorded by the Courts below that the appellants/defendants tried to encroach upon the common lane/area. Despite denial of the appellants/defendants, the Court appointed Court Commissioner on two occasions to take measurements of the plots in question and both the Commissioners found clearly that there was attempted encroachment on the land at the hands of the appellants/defendants. The suit was decreed. Appeal was also dismissed. The learned counsel for the appellants tried to suggest that he wanted to move a third application for appointment of Court Commissioner for taking measurements. The proposal for sending third Commissioner is preposterous. In my view, even the second Commissioner ought not to have been appointed. The parties should realise that the Court Commissioners are representatives of the Court and their findings are not easily disturbed. So there was no question of sending third Commissioner.

The learned counsel for the appellants then submitted that the Courts below did not consider the contents of the sale deeds which he had brought on record. In this case what was important was boundaries of the plots purchased by the appellants/defendants. Once the boundaries are found on the spot, the Commissioner would see them and record as to whether there was any encroachment. Appeal does not give rise to any substantial question of law. Dismissed.

JUDGE

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