

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Second Appeal No.266 of 2014
(Chandulal Rushiji Sakhare and another v. Janardhan Ganpat Bhandekar)

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

Shri G.N. Khanzode, Advocate for Appellants.
Shri V.N. Morande, Advocate for Respondent.

Coram : R.K. Deshpande, J.
Date : 13th June, 2016

The Trial Court passed a decree in Regular Civil Suit No.53 of 2005 on 12-1-2009 for removal of encroachment and directing delivery of possession of 3 R of land out of Kh.No.769 by the defendants to the plaintiff. The lower Appellate Court has dismissed Regular Civil Appeal No.07 of 2009 on 6-3-2014. Hence, the original defendants are before this Court in this second appeal.

Both the Courts below have concurrently held that the defendants have encroached upon 3 R of land out of Kh.No.769 owned by the plaintiff. The Courts below have recorded the finding that the plaintiff is the owner of Kh.No.769, admeasuring 83 R, by the registered sale-deed dated 10-7-2000 at Exhibit 46. The TILR was appointed to measure the suit land. Accordingly, he submitted his report at Exhibit 35 and the map is

produced at Exhibit 82. The Trial Court has recorded the finding that the measurement was carried out after issuing the notices to the parties concerned. There is no cross-examination on the report submitted by the TILR. Merely because, the other property on the western side in occupation of the defendants has not been measured, that does not in any manner affect the measurement of Kh.No.769. The Courts below have recorded the finding that the defendants have encroached upon the Government land and the construction has been carried out on 3 R of land belonging too the plaintiff without obtaining any sanction from the competent authority.

No substantial question of law arises for consideration. The second appeal is dismissed.

Judge.

Lanjewar