

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

SECOND APPEAL NO.346 OF 2017

(Maheshkumar Ramlal Pethe ..vs.. Vasant Rambhau Dhole)

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

Court's or Judge's orders

Shri N.A. Gawande, Counsel for the appellant.

CORAM : ROHIT B. DEO, J.

DATED : 24-11-2018

The appellant is the original plaintiff in Regular Civil Suit 42/1995 which is instituted against the respondent-defendant seeking possession of land admeasuring 110 square meters (1184 square feet). The suit is predicated on the assertion that the defendant is an encroacher qua the suit land. The Courts below have recorded a finding of fact that the encroachment is not proved. The appellate Court has *inter alia*, relied on map Exhibit 195 and the report submitted by the surveyor. The learned appellate Court has further relied on the admission given by the plaintiff in the cross-examination.

2. Perusal of the reasons recorded by the appellate Court, *inter alia* in paragraph 27 of the judgment, would reveal that the son of the plaintiff, who is examined as witness admitted that Survey 164/2 is converted for agricultural purpose, and the plots carved out are sold to various persons, except land admeasuring 738 square

feet.

3. The learned Counsel for the appellant is not in a position to demonstrate any perversity in the concurrent findings recorded. No question of law much less substantial question of law arises for adjudication.

4. The appeal is dismissed.

JUDGE

adgokar