

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
SECOND APPEAL NO.444/2022

Hemraj Gangaram Iname and others
Vs.
Suryabhan s/o Bhiva Dhawas

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

Court's or Judge's orders

Shri S.C. Bhalerao, Advocate for appellants

CORAM : SMT. M.S. JAWALKAR, J.
DATED : 06/04/2023

The present appeal is filed being aggrieved by the judgment and decree passed in Regular Civil Appeal No.04/2016 decided on 24/06/2022. The respondent has filed Regular Civil Suit No.27/2002 alleging that appellants have encroached upon the agricultural land of Old Survey No.1/1 Old Gat No.5 New Gat No.6 of area 3 H 6 R. The appellants are owner of adjoining land Old Gat No.6 Survey No.1/2 New Gat No.5. Hence suit is filed for possession and *mesne profit*.

2. The learned Trial Court on the basis of admission by the defendant and also on the basis of report of Court Commissioner and other evidence on record held that the plaintiff is the owner of the land Survey No.1/1 and defendants encroached upon the suit land.

3. Accordingly, possession was directed to be handed over. The respondent carried out appeal bearing Regular Civil Appeal No.04/2016. The appeal

is partly allowed and direction regarding enquiry of *mesne profit* is set aside. However, there is concurrent finding about encroachment of the appellants herein. The learned Appellate Court in view of admission of the appellants and report of encroachment recorded its concurrent finding regarding encroachment. As such, there is no substantial question of law involved in the matter and the present appeal stands dismissed. Decree be drawn up accordingly.

JUDGE

R.S. Sahare