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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 49 OF 2024
WITH
CIVIL APPLICATION NO. 802 OF 2024**

Ratanlal Gangaram Mehta ... Appellant/Applicant

(Decd. Through LRS)

Abhishek Mahavir Mehta

Vs.

Sharad Raghunath Ingole ... Respondents

(Decd. Through LRs)

Satish Sharad Ingole and Others

Mr. Shashank C. Mangle h/f. Mr. Satish S. Raut for the
Appellant/Applicant.

CORAM : GAURI GODSE, J.

DATE : 11th DECEMBER 2024

ORDER :

1. Heard learned counsel for the appellant. The second appeal raises the following substantial questions of law :

- (i) In the facts of the case pertaining to the dispute of the adjoining land owner, whether it was necessary to direct joint survey of both the lands ?

(ii) Whether the trial court's findings on accepting the encroachment as shown in map at Exhibit-198 could have been reversed by the First Appellate Court by holding that the survey map at Exhibit-198 was invalidated in as much as the map at Exhibit-198 prepared as per procedures followed under the Maharashtra Land Revenue Code was never challenged by the defendants ?

(iii) Whether the findings recorded by the First Appellate Court on the validity of the map at Exhibit-198 would amount to findings recorded beyond the jurisdiction of the Civil court ?

(iv) Whether the First Appellate Court ought to have exercised powers under Rule 23A read with Rule 25 of Order XLI of the Civil Procedure Code, 1908 ("CPC") and considered remanding the matter back for fresh survey and recording evidence or call for necessary findings from the trial court after framing necessary issues ?

2. Office is directed to issue notice for final disposal of the second appeal on the aforesaid questions of law.

3. Notice is made returnable on 12th February 2025.
4. In addition to court notice, learned Advocate for the appellant to serve the respondents by private service and file service affidavit before the next date.

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5. Rule on interim relief in terms of prayer clause (c) and (d) is made returnable on 12th February 2025.
6. In addition to court notice, learned Advocate for the applicant to serve the respondents by private service and file service affidavit before the next date.

[GAURI GODSE, J.]