

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SECOND APPEAL NO. 30 of 2016**

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RAJENDRASINH POPATSINH VALA....Appellant(s)

Versus

NARENDRASINH DHIRUBHAI RANA....Respondent(s)

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Appearance:

MR AR THACKER, ADVOCATE for the Appellant(s) No. 1

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CORAM: HONOURABLE MR.JUSTICE R.D.KOTHARI

Date : 05/02/2016

ORAL ORDER

1. Heard learned advocate Mr. Thacker for the appellant.

2. Appellant is aggrieved by the concurrent findings of two Courts.

3. The appellant is a original defendant. Both the Courts were pleased to decree the suit. In substance, the grievance of the plaintiff in the suit was, the defendant has committed encroachment and for removal of the same relief was prayed for.

4. Learned advocate Mr. Thacker has submitted that appellant has purchased the Plot No. 89-F from the plaintiff.

5. During the course of hearing learned advocate has

drawn attention of this Court to the registered sale deed executed in favour of the present appellant. The sale deed pertains to Plot No.89-F. The plaintiff has sold 200 sq. yard land to the present appellant. Learned advocate submits that 200 sq. yard is to be measured from the boundary of Plot No. 89-E.

6. The plaintiff has instituted one suit i.e. Regular Civil Suit No. 324 of 2007 claiming that the present appellant has committed encroachment on Plot No. 89-G. It is not in dispute that the Plot No. 89-F is sold to the present appellant. In another suit filed by plaintiff i.e. Regular Civil Suit No. 325 of 2007, wherein, in substance, prayer was made that the present appellant be directed to remove unauthorized construction carried out in the land, immediately following the Plot No. 89-G. It appears to be the say of the plaintiff in the later suit that the said land, though not sold to the appellant, the appellant has committed encroachment therein. Against the prayer in this terms, in respect of land immediately following the Plot No. 89-G, in operative order Court has passed an order directing the appellant to remove encroachment etc. committed in Plot No. 89-F. The operative order suggest that encroachment to the extent of 250 sq. yard.

7. Prima facie, claim of the plaintiff in Regular Civil Suit No. 325 of 2007 and relief granted in the operative order by the Court, there is apparent variance and mismatch in the relief granted by the Court.

8. Only for above limited purpose, **Notice**,
returnable on **16th March, 2016**.

BD Songara

(R.D.KOTHARI, J.)