



Swapnil

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
SECOND APPEAL NO. 519 OF 2014**

Jagganath Pandurang Ukade and Ors. ...Appellants

**Vs.**

Saraswati Sunildutta Wagh. ...Respondent

Mr. Nikhil Pujari i/b. Mr. P. N. Joshi for the appellants.

Mr. Rameshwar N. Gite for the respondent.

**CORAM : GAURI GODSE, J.**

**DATE : 29<sup>th</sup> APRIL 2026**

**ORDER :**

1. The second appeal is admitted on the following substantial questions of law :-

I. When the suit was for possession after removal of encroachment, whether it was necessary for the first appellate court to first verify whether the joint survey of the land belonging to both the parties was carried out for ascertaining the allegations of encroachment ?

II. When admittedly the surveyor had not measured the entire survey no. 193 whether based on the surveyor's report, the finding could have been recorded that the defendant has encroached upon part of the pot hissa of that

survey number ?

III. Admittedly the parties are adjoining landowners and their respective lands form a part of survey no. 193. Hence, whether it was necessary that to ascertain the allegation of encroachment the joint measurement of the adjoining lands belonging to the respective parties was necessary for recording finding on encroachment ?

IV. Whether the judgment and decree passed by the first appellate court suffers from misappreciation of the evidence on record and more particularly, surveyor's report which was not prepared after the joint survey of the adjoining land belonging to the respective parties and the entire survey number ?

2. Notice is waived on behalf of the respondent.
3. Call for records and proceedings.
4. Printing is dispensed with.
5. Learned advocate for the appellants shall file a private paper-book within a period of one year from today.

**[GAURI GODSE, J.]**