

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.234 OF 2008  
ALONGWITH  
CIVIL APPLICATION NO.211 OF 2008

Hasmatbibi Shaikh Ismail Dalvi )..Appellant

Versus

Zainuddin Ismail Dalvi through )  
L.heirs Smt.Latifa Z.Dalvi & Ors. )..Respondents

----

Mr.M.S.Kadu for the appellant.

Mr.S.V.Gavand for the respondents.

----

**Coram : R.S.Mohite,J**

Date : 30.6.2008.

PC

1. This is a Second Appeal filed by the original defendant no.1. The plaintiff filed a suit for injunction against construction of toilet block. It is an admitted position that gat nos.225 & 227 belonged to the plaintiff. The suit was dismissed by the trial Court but remanded by the Appellate Court. After remand, the trial Court dismissed the plaintiff's suit but the appellate Court has allowed the plaintiff's appeal and allowed the plaintiff's suit. This has been done on the basis of the Court Commissioner's map which indicates that the construction being effected by the defendant is on gat no.227. The question as to where exactly the

construction is being effected is only a question of fact. There is no substantial question of law involved. Hence, the Second Appeal is dismissed.

CIVIL APPLICATION NO.211 OF 2008

1. As the Second Appeal is dismissed, Civil Application also stands rejected.

(R.S.Mohite,J)