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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1427 OF 2015

Kashinath Baliram Jadhav.

..Petitioner

-Versus-

Jaikumar Bankatlal Bakliwal and others.

..Respondents

.....

Mr.Vivek V. Bhavthankar, Advocate for the Petitioner.

.....

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 16th February, 2015

Per Court:

1 Leave to correct prayer clause (A). Correction be carried out forthwith.

2 The Petitioner is aggrieved by the impugned order dated 24.06.2013 passed below Exhibit-43 in RCS No.394/2009, by which the application of the Defendants for appointing the Taluka Inspector of Land Records (TILR) as a Court Commissioner for measuring the suit land Survey No.10 has been allowed subject to the Defendants paying the costs towards appointment of the Court Commissioner.

3 The Petitioner/ Plaintiff, therefore, moved an application

Exhibit-51 on 05.07.2013 seeking review of the order dated 24.06.2013.

By order dated 05.12.2014, application Exhibit-51 has been rejected.

4 The grievance of the Petitioner is that he is the original Plaintiff. The suit is for perpetual injunction so as to ensure that peaceful possession and enjoyment of the suit property by the Petitioner is not hampered or affected by the Respondents/ Defendants. The Petitioner, therefore, submits that there is no purpose for appointing a Court Commissioner as the relief sought is only to the extent of injunction against the Defendants from interfering with the peaceful enjoyment of the suit property by the Petitioner.

5 Having considered the submissions of the learned counsel appearing for the Petitioner, I have gone through the petition paper book. The Defendants have come up with a case that 04 Acres of land which are part of Survey No.10 stand in their names and they have a right and title to the said property. The suit was, therefore, opposed on the ground that the Petitioner desires to injunct the Defendants from their own property. The case before the Trial Court was as regards the claim made by the Defendants to the extent of 04 Acres.

6 The Trial Court has ordered the TILR, Nanded to get the suit

property Survey No.10 measured, prepare the measurement map and indicate any portion of the land if held by the Defendants. The costs were also directed to be paid by the Defendants.

7 It is by now well settled that in a situation where the parties are disputing the measurement of the suit property or portions of the suit property, the land could be got measured by the TILR who is a Government Officer and such measurement is to be done in the presence of the litigating sides and by taking assistance of the record available. The boundaries, therefore, can be fixed and this exercise would assist the Trial Court in resolving the controversy before it.

8 As such, I do not find that the impugned order dated 24.06.2013 could be termed as being perverse or erroneous. No loss or harm of any nature is likely to be caused to the Petitioner by the TILR carrying out the measurement of the suit land.

9 For the aforesaid reasons, the impugned order dated 05.12.2014 rejecting the Review Application of the Petitioner does not call for any interference. The Writ Petition is dismissed. No order as to costs.

(RAVINDRA V. GHUGE, J.)