

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8157 OF 2014

TAIBAI BANDU KALE
VERSUS
SHESHRAJ SURYABHAN KALANE

.....
Advocate for petitioner : Mr. N. V. Gaware

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CORAM : V. K. JADHAV, J.

DATED : 18th FEBRUARY, 2015

PER COURT :-

1. Heard Shri N. V. Gaware, the learned counsel for the petitioner.
2. The petitioner is the original defendant, filed an application at Exh. 40 before the Court below for re-measurement of the suit land. The learned Civil Judge (Senior Division), by its impugned order below Exh. 40, rejected the application.
3. The learned counsel for the petitioner submits that the internal measurement is required to find out the correct position and the earlier measurement was carried out in the absence of the petitioner.

4. It appears that the impugned order was passed in the year 2013 and the petitioner has challenged the said order after the long gap. Furthermore, the suit property was measured as per the order of the Court below dated 17.03.2007 and the report has been submitted on record on 18.11.2008 vide Exh. 25. The petitioner/original defendant has filed an application Exh. 40 in the year 2013 for re-measurement of the suit land. On perusal of the contents of application at Exh. 40, it appears that no reasons are given for re-measurement of the suit land. The plaintiff, as it appears from the impugned order, has filed his affidavit of evidence and the case is pending for his cross-examination.

5. The petitioner/original defendant can cross-examine the cadestrial surveyor who has carried out the said measurement. The learned Judge of the Trial Court has thus rightly rejected the application at Exh. 40. No case is made out for interference in the impugned order. The Writ Petition is devoid of any merit and the same is hereby dismissed. There shall be no order as to costs.

(V. K. JADHAV, J.)

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aaa/-