

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3241 OF 2014**

Rajendra Ghanshyam Pawar

..Petitioner

Vs.

Dhananjay Chandrakant Shivdas & Anr.

..Respondents

Mr. V. S. Talkute for the Petitioner

CORAM : R. M. SAVANT, J.

DATE : 19th AUGUST, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 7-11-2013 passed by the Learned Civil Judge, Senior Division, Satara, by which order the application Exhibit 48 for carrying out the measurement of the property involved in the Suit in question, came to be rejected.

2 The said rejection is inter alia on the ground that earlier two measurements have already been carried out amongst which one was Nimtana survey carried out on 3-7-2010. The Trial Court whilst rejecting the application has observed that there was no prima facie evidence on record to disclose that south and north side fixed stones of Survey No.85 were not taken in consideration by Nimtanadar and he has done the measurement work by moving towards eastern side as alleged. The Trial Court lastly observed that there are no grounds to set aside the earlier commissioner's report i.e. report of

Nimtandar and order the measurement by a superior officer.

3 In my view, having regard to the reasons mentioned in the impugned order, no case for interdiction in the Writ Jurisdiction of this Court under Article 227 of the Constitution of India is made out. The Writ Petition is accordingly dismissed.

4 However, it would be open for the Trial Court to order re-measurement at a later stage if it deems it appropriate, for a proper adjudication of the Suit.

[R.M.SAVANT, J]