

Mr. Saeed Kadu for Petitioner.
Mr. Suhas S. Deokar i/b. Mr. C. G. Gavnekar for Respondent No.1.

P.C. :

4. Mr. Kadu submitted that Deputy Superintendent of Land Records, Mangaon has carried out the measurement and has prepared the report. He relied upon the decision of this Court in the case of *Gangadhar Mahadu Gajakas Vs. Shantilal Ubhaychand Gandhi*, **2001 (3) Bom.C.R. 260**. The learned trial Judge has rejected the application by observing that there is no provision for appointing Nimatandar under

C.P.C. The learned trial Judge also relied upon the decision of this Court in the case of **Gangadhar M. Gajakas** (*supra*).

5. In view thereof, Mr. Kadu seeks permission to withdraw this Petition with liberty to file proceedings under the Maharashtra Land Revenue Code, 1966.

6. In view thereof, on the motion made by Mr. Kadu, Petition is allowed to be withdrawn with liberty as prayed for. Grant of liberty shall not be construed as an expression on merits of the case. I have not examined the merits of the case. All the contentions of the parties are expressly kept open. Order accordingly.

(R. G. KETKAR, J.)

Minal Parab