

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

74 WRIT PETITION NO. 10655 OF 2015

BHIVU MOHAN WANJARI AND OTHERS
VERSUS
BANSI THAVARU CHAVAN AND OTHERS

Shri. Shailesh P. Brahme, Advocate, for petitioners.

CORAM: T.V. NALAWADE, J.

DATE : 16th AUGUST 2016

ORDER:

1) The petition is filed to challenge the order made by the Civil Judge, Senior Division, Chalisgaon on Exhibit 61 in Regular Civil Suit No.110/2010. Heard learned counsel for the petitioners.

2) The suit is filed against the present petitioners by the respondents for removal of encroachment and for possession of the encroached portion. It is the case of the plaintiffs that they took measurement through surveyor on 16-8-2010 and then they realised that encroachment on their land was made and that encroachment was made by the defendants. The defendants are owners of the

adjacent land and as per the measurement, owners of this adjacent land, the defendants, have made encroachment over the land of the plaintiffs.

3) Application was filed by the present petitioners to frame two additional issues in addition to the issues already framed with regard to the requirement of the plaintiffs to prove encroachment. It is the case of the petitioners that point of limitation is also involved and the plaintiffs ought to have made other adjacent owners of the land, party defendants to the suit. The plaintiffs have come with specific case that encroachment was noticed on 16-8-2010. It is not the specific case of the defendants, present petitioners that they have become owner due to adverse possession. Further, the plaintiffs claimed relief of removal of encroachment only against the defendants. In view of these, there was no other alternative before the trial Court than to reject the application. There is no possibility to interfere in the order made by the trial Court. The petition stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

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