

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

WRIT PETITION NO. 11976 OF 2014

Baban Narayan Vane and Another ..PETITIONERS

VERSUS

Kayabai Pandit Khedkar ..RESPONDENT

....

Mr. V.P. Savant, Advocate for petitioners.

Mr. Y.S. Choudhari, Advocate for respondent.

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**CORAM : T.V. NALAWADE, J.
DATED : 21st SEPTEMBER, 2016**

ORDER :

1. The petition is filed to challenge the order dated 14th October, 2014 passed by the Civil Judge, Junior Division, Georai in R.C.S. No. 378 of 2008. An application at Exhibit 51 was filed by the defendant for appointment of Court Commissioner. Heard both the sides.

2. The suit is filed by the present respondent for relief of permanent injunction. The plaintiff has purchased some portion of the land Gut No. 52 from the defendant. There is dispute between the parties over the boundaries. The defendant also wants to show that the boundaries were not fixed. Defendant wants to get measured the portion

sold and portion which remained with defendant. The learned Counsel for defendant submitted that the defendant is ready to handover even the portion which is found in possession of himself and which is already sold to plaintiff. For that the defendant wants to take measurement.

3. As the suit is filed for relief of permanent injunction, ordinarily the Court would not allow such measurement and thus the Trial Court has rightly rejected the application for appointment of Court Commissioner. This Court wants to make clear that in view of the present dispute it is open for both the sides to go for measurement without intervention of the Court and take steps if they so desire on the basis of the measurement so made.

4. With these observations, present petition is disposed of.

(T.V. NALAWADE, J.)

SSD