

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

**WRIT PETITION NO. 8501 OF 2016
WITH
CIVIL APPLICATION NO. 14986 OF 2016**

Tatyasaheb Narhari Udhan and Others ..PETITIONERS

VERSUS

Ranjeet Kashinnath Udhan and Others ..RESPONDENTS

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Mr. B.R. Kedar, Advocate for petitioners.

Mr. R.M. Deshmukh, Advocate for Respondent No.1.

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**CORAM : T.V. NALAWADE, J.
DATED : 14th DECEMBER, 2016**

ORDER :

1. The petition is filed to challenge the order made on Exhibit 175 in Regular Civil Suit No. 57 of 2009 which is pending before the Civil Judge, Junior Division, Ghansawangi, District Jalna. Both sides are heard.

2. The application was filed by present petitioner in the suit for appointment of T.I.L.R. as Court Commissioner for measurement of lands of plaintiff and defendants. The plaintiff has filed suit for removal of encroachment. In the past, at the instance of plaintiff, T.I.L.R. was

appointed as Court Commissioner measurement. The submissions made show that T.I.L.R. is examined as witness in the proceeding.

3. In the application filed by present plaintiff, he contended that T.I.L.R. did not make measurement personally and he delegated the work to his subordinate who was surveyor and measurement was not made by the competent person. He has other grievance that at the time of measurement the things like polls, trees, etc. were not shown and separate areas of Defendant Nos. 1 to 4 were not shown. It is the contention that encroachment was not specifically shown by the T.I.L.R. in the map prepared. After considering all these contentions, the Trial Court has rejected the application.

4. If in the past, on the basis of application made by the plaintiff order of appointment of T.I.L.R. was made and now it is up to the Court to decide as to whether the order was duly complied with by the office of surveyor. It is up to the Court to take decision as to whether the measurement was made by the competent person. In view of this circumstance, it is not possible to interfere in the order made by the Trial Court.

5. It is made clear that it will be open to the plaintiff to file appeal and get measurement through superior surveyor if he desires but the Court is not expected to make order of appointment of such superior officer as 2nd Court Commissioner. Petition stands dismissed. Civil Application is disposed of. Interim relief is vacated.

(T.V. NALAWADE, J.)

SSD