

- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.10048/2015

Arun Vishnu Andhare & another.

...Petitioners..

Versus

Laxman Eknath Andhare & others.

...Respondents...

.....

Shri Shaikh Shoyab, Advocate for petitioners.

Shri V.M. Humbe, Advocate, Advocate for respondent no.1.

Respondent nos.3 and 4 to 9 served.

.....

CORAM: T.V. NALWADE, J.

DATE: 14.09.2016

ORDER :

1] The petition is filed to challenge the order made by the learned Civil Judge, Junior Division, Bhoom Dist.Osmanabad, by which the trial Court has allowed the application filed for appointment of Court Commissioner / T.I.L.R. Plaintiff wants measurement to show the encroachment. It is the case of the present petitioner that some mistake is committed in creation of record during implementation of the consolidation scheme and

- 2 -

right from beginning, the petitioner / defendant was owner and in possession of the 40 R portion of the land. It is contended that due to mistake, 20 R portion is shown in the revenue record to be allotted to plaintiff during implementation of the consolidation scheme, but the title has not passed to the plaintiff as there was no exchange of lands. The learned counsel for the petitioner submitted that due to these circumstances, the report of Court Commissioner will be of no use to the Court as basically the plaintiff will be required to prove the title. It appears that the present petitioner / defendant has already filed proceedings to challenge the entries made during implementation of the consolidation scheme.

2] Even if the aforesaid contentions made by the learned counsel for the petitioner / defendant are accepted as they are, there is no need to interfere in the order made by the trial Court for appointment of Court Commissioner. The Court Commissioner may help the Court as the Court Commissioner will be required to go through the record, which will be the revenue record, which was in existence prior to implementation of the

- 3 -

consolidation scheme and also the record, which was created during the consolidation scheme. Due to these circumstances, the report may even help the defendant.

3] Thus, there is no need to interfere in the order made by the learned trial Court. In the result, the writ petition is disposed of as dismissed.

(T.V. NALAWADE, J.)