

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION***

***WRIT PETITION NO. 5595 OF 2016***

Hanumant Ganpat Godse ... Petitioner  
v/s  
Shrimant Vitthal Godse & ors. ... Respondents

Mr.Ajit Kenjale for the petitioner.

Ms.Sheetal Ubale i/by R.V.Bansode for Resp.Nos.1 to 3.

***Coram: N.M. Jamdar, J.***

***Dated: 19 August 2016***

***P.C.:***

The Petitioner challenges the order passed by the Civil Judge, Junior Division, Vaduj, dated 7 July 2015 in Regular Darkhast No.37 of 2008, wherein the learned Civil Judge has directed the decree to be executed as per the measurement map dated 26 August 1992.

2 Heard learned counsel for the parties.

3 Learned counsel for the Petitioner submitted that, as per the compromise decree, the parties had agreed that the property be divided in equal portions, however, the map which is relied upon by the learned Civil Judge for the purpose of execution of the decree, does not reflect the correct position as unequal shares have been

indicated therein.

3 If the compromise is seen carefully, the parties have referred to the earlier agreement between them regarding half share as a historical fact and thereafter have stated that pursuant to the agreement, a measurement was carried out on 26 August 1992, and pursuant to the agreement the map is prepared and the parties have agreed that it is as per the map that the area is demarcated. In the compromise decree at least at four places the Petitioner has accepted the position that the decree will have to be examined as per the map. The contention of the Petitioner that the Petitioner has come to know that the map is incorrect subsequently, cannot be accepted. No steps have been taken in respect of the consent terms agreeing the demarcation as per the map. It was not possible by the executing Court to go beyond the compromise decree and, therefore, no error was committed by the learned Judge in directing that the decree be executed as per the map accepted by the parties.

4 No case is made out for interference.

5 The writ petition is accordingly rejected.

*(N. M. Jamdar, J.)*