

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Writ Petition NO. 3083 OF 2016

SUNIL SHARAD KULKARNI
AND ANR.

...Petitioners

Versus

MANSARAM BHAGA AHIRE
AND ANR.

...Respondents

....
Mr. Sagar Kasar, Advocate for the Petitioners.

....

CORAM : R. G. KETKAR, J.
DATE : 23rd MARCH, 2016

P.C.

1. Heard Mr. Sagar Kasar, learned Counsel for the petitioners, at length.
2. By this Petition under Article 227 of the Constitution of India, the petitioners have challenged the judgment and order dated 27.1.2014. By that order, the learned trial Judge rejected the application made by the petitioners, hereinafter referred to as the 'defendants' for remeasurement of the suit property.
3. The respondents, hereinafter referred to as the 'plaintiffs', have instituted the suit for perpetual injunction restraining the defendants from obstructing the possession of the plaintiffs in respect of the suit property. During pendency of the suit, the plaintiffs filed application for appointment of the

Court Commissioner. Accordingly, the trial Court appointed Taluka Inspector of Land Records [TILR] for carrying out measurement of the suit property. The Court Commissioner has submitted a report below Exhibit-21. The defendants have filed objections on 4.8.2011 to the report. The defendants thereafter filed application for remeasurement of the suit property. By the impugned order, learned trial Judge rejected the application on the ground that the defendant did not file appeal against the report of the TILR.

4. As noted earlier, the TILR had submitted report at Exhibit-21. The defendants have lodged objections to the said report. Apart from that the plaintiffS will have to examine said surveyor for proving the report at Exhibit-21 when the defendants will have liberty to cross-examine the said witness. The learned trial Judge will also consider the objections raised by the defendants. In view thereof, no case is made out for remeasurement of the land. Hence, the Petition fails and the same is dismissed.

(R. G. KETKAR, J.)