

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

WRIT PETITION NO. 728 OF 2015

Audumbar Raoji Patil

.. Petitioner

Versus

Balasaheb Vitthal Gadhave
and another

.. Respondents

Shri Hanmant V. Patil, Advocate for the Petitioner.

Shri S. K. Naikwade, Advocate for Respondent Nos. 1 and 2.

CORAM : S. V. GANGAPURWALA, J.

DATE : 13TH DECEMBER, 2017.

FINAL ORDER :

. The petitioner is the original plaintiff. He has filed suit for removal of encroachment. The T. I. L. R. was appointed by the Court as Court Commissioner to measure the property. The T. I. L. R. submitted his report to the Court. The petitioner not satisfied by the report submitted, filed an application for appointment of Superintendent of Land Records for measurement. The said application is rejected.

2. Mr. Patil, the learned advocate for the petitioner submits that, the T. I. L. R. has not carried out the measurement as per rules and all the adjacent plots are not measured. According to the learned counsel appointment of S. L. R. would assist the

Court in effectively adjudicating the dispute.

3. Mr. Naikwade, the learned advocate for respondent Nos. 1 and 2 submits that, the T. I. L. R. appointed as a Court Commissioner has measured the property. There is no need for fresh measurement and measurement report is rightly submitted.

4. The parties have yet to commence the evidence. The plaintiff will have to examine the Court Commissioner to prove the report. After evidence is led by the parties and it appears to the Court that, earlier measurement is not properly carried out and facilitate effective adjudication fresh measurement is necessary, then at that state, the parties may apply for appointment of an expert as Court Commissioner for measurement and in that event impugned order would not come in the way. The writ petition is disposed of with aforesaid observations. No costs.

[S. V. GANGAPURWALA, J.]