

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.6358 OF 2016

Shaikh Naimuddin s/o Mainuddin
Maniyarsaheb, age: 65 years,
Occ: Business, R/o Shahavali Mohalla,
Boudh Nagar, Latur. Petitioner

Versus

Balasaheb Baburao Shinde,
age: 51 years, Occ: service,
R/o Prakash Nagar, Latur. Respondent

Mr.D.P.Deshpande, advocate for the petitioner
Mr.C.R.Deshpande, advocate for the Respondent.

CORAM : S.B.SHUKRE, J.

DATE : 30th January, 2017

ORAL JUDGMENT :

1 Heard. Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 By the impugned order, the application vide Exhibit-94 filed by Respondent – original defendant, for measuring entire land S.No.52 of Latur, has been granted by the trial Court. Perusal of the application, moved in this regard, would show that no reasons are specified as to why entire land S.No.52, which does not comprise one or two parts but several parts, needs to be measured. No justification for carrying out measurement of entire S.No.52 whatsoever has been given or appears on record. Even the impugned order dated 21.03.2016 does not state any reason as to why measurement of entire S.No.52 would be beneficial for

adjudicating controversy between the parties. The only reason stated is that, by allowing such application, no harm would be caused to the plaintiff. I would rather find that allowing of such vague application would only result in opening Pandora's Box and would also enlarge scope of dispute raised by the petitioner. The impugned order, therefore, cannot stand the scrutiny of law, being illegal and perverse.

3 Writ Petition is, therefore, allowed. The impugned order is quashed and set aside. Application Exhibit-94 stands rejected. However, liberty is given to the Respondent to file a fresh application on specific grounds. The trial Court shall make every endeavour to dispose of the suit as early as possible, preferably within one year from the date of the order.

4 Rule is accordingly made absolute. No costs.

S.B.SHUKRE
JUDGE

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