

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11888 OF 2014
(Digambar Kerba Sonkamble and others Vs. Gopal Gyanoba
Sonkamble)

Mr.S.H.Panchal, Advocate for the petitioners.
Mr.G.G.Suryawanshi, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 07/06/2017

PER COURT :

1. The petitioner is aggrieved by the order dated 26/06/2013 by which the TILR has been appointed as Court Commissioner invoking Order 26 Rule 9 of the CPC. The TILR has already measured the land as per the orders of the Trial Court and has submitted a report. Though this petition was filed on 25/06/2014, this Court has not granted any interim relief to the petitioners.

2. Learned Advocate for the petitioners vehemently submits that the direction to appoint a TILR was unsustainable as there was no dispute with regard to the boundaries or measurements of the suit property. He contends that if the very purpose of the appointment of the Court Commissioner was in the backdrop of the undisputed aspects, notwithstanding that the TILR has implemented the

impugned order, the report of the Court Commissioner would be inconsequential.

3. Learned Advocate for the respondent submits that the petitioners can always question the report of the Court Commissioner and are not precluded from resorting to effective remedies under the CPC. He further submits that recording of evidence has commenced.

4. Considering the above, this petition is disposed of by keeping all contentions of the litigating sides open with regard to the significance of the report of the TILR and by keeping open the remedies to the litigating sides available under the CPC. Needless to state, the Trial Court would consider the contentions while deciding the suit.

(Ravindra V.Ghuge, J.)