

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

BENCH AT AURANGABAD.

WRIT PETITION NO.7820 OF 2013

Gopabai Sitaram Hiwale
and othrs. ... Petitioners.

Versus

Nivrutti Laxman Hiwale ... Respondent.

...
Mrs.Geeta L.Deshpande, advocate for petitioners.
Mr.J.C.Badve, advocate for Respondent.

...

CORAM : S.V.GANGAPURWALA J.

Date : 28.08.2017.

PER COURT :

1. On an application filed by the present Respondent/plaintiff, the Court appointed advocate to measure Municipal house property No.872 and 876 and to show encroachment if any over the suit property bearing House No.872 in the map.

2. I have heard Mrs.Deshpande, learned

counsel for the petitioner and Mr.Badve, learned counsel for Respondent.

3. Carrying out the measurement, demarcating the boundaries and showing encroachment is an expertise job. It would not be within the domain of the learned advocate to conduct measurement, show encroachment on its own. It is stated that the Court in the impugned order has observed that Court Commissioner may take technical help/assistance of concerned Officer of Municipal Council. It is fairly submitted by the learned advocate for the Respondent that no such technical assistance was taken by the Commissioner.

4. If any measurement is done by the advocate, no purpose would be served as reliance can not be placed on such a report.

5. In light of the above, though the Commissioner has conducted measurement, I set aside the impugned order.

6. If the Respondent/plaintiff deems it appropriate, he may apply for measurement by expert, which application would be considered by the Court considering factual matrix involved.

7. The Writ Petition is accordingly allowed. No costs.

(S.V.GANGAPURWALA, J.)

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