

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
BENCH AT AURANGABAD.

**926 WRIT PETITION NO. 13773 OF 2017**

JAYSINGH RAJENDRA HANDIBAG  
VERSUS  
PRABHAKAR BHAUSAHEB HANDIBAG

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Advocate for Petitioners : Mr. S. B. Bhapkar.

Advocate for Respondent : Mr. K. B. Jadhav, h/f Mr. S. B. Bhapkar.

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CORAM : **V. K. JADHAV, J.**

DATE : 29<sup>th</sup> November, 2017.

**ORDER:**

. I do not find any substance in this writ petition. The Petitioner / original Plaintiff has filed application Exhibit 52 seeking demarcation of the boundary mark of suit land.

2 The Court Commissioner was appointed to visit the land Survey Nos.65/C and 65/B situated at village Aanegaon, Taluka Kaij and to carryout work as prayed by the Plaintiff vide application Exhibit 42. The Court Commissioner has carried out the work and submitted his report Exhibit 50 alongwith the map. The Petitioner / Plaintiff has instituted the suit for declaration and a decree of perpetual injunction. As per the report submitted by the Court Commissioner, the Petitioner / Plaintiff found in possession of 22 Ares land. As per the pleadings of the Petitioner / Plaintiff, he is in possession of 32 Ares

land. By way of filing the application Exhibit 52, the Plaintiff is seeking demarcation of the boundary mark of the whole 32 Ares land. *Prima-facie* it appears from the report of the Court Commissioner that the Plaintiff is not in possession of 32 Ares land.

3           In view of the above, the Trial Court has rightly observed that no such direction can be given for demarcation of boundary mark of the land admeasuring 32 Ares land. This is the classic example of creation of evidence. The Trial Court has rejected the application correctly. I do not find any substance in this writ petition. The writ petition is hereby dismissed.

**[ V. K. JADHAV, J. ]**

*ndm*