

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

925 WRIT PETITION NO. 762 OF 2017

BAPU DHONDIBA JADHAV
VERSUS
GITA SHAMRAO JADHAV

...
Advocate for Petitioner : Y.B. Bolkar, h/f. Shinde Ravindra S
Advocate for Respondents : Deshmukh Ravindra M. For R/sole
...

CORAM : P.R. BORA, J.
DATE : 29-03-2017.

P.C. :

1. Heard the learned counsel appearing for the petitioner. The petitioner has challenged the order passed by the learned Judicial Magistrate First Class, Ghansawangi on 09.12.2016 below Exhibit-5 in Regular Civil Suit No.57 of 2016. Vide the impugned order the trial Court has appointed T.I.L.R. as the Court Commissioner to carry out joint measurements of Gut no. 137 and 135 situated at village Karadgaon, Tq. Ghansawangi, District Jalna.
2. The impugned order is assailed by the petitioner on the ground that before directing joint measurements of gut nos. 137 and 135, all the adjacent land owners were required to be arrayed as defendants in the suit as well as in the application. I, however, do not see any merit in the objection so raised. It is the specific case of the original plaintiff that, he is the owner and possessor of the land gut no. 137 and the defendant is the owner of land gut no.

135. The land of the defendant is to the northern side of the land of the plaintiff. It is the specific case of the plaintiff that, there is an encroachment on her land to the extent of 20 R from the northern side. In the circumstances, an application was filed by her seeking measurement of the land in her possession as well as of the land towards the northern side of her land.

3. Considering, the contentions so raised, the learned trial Court directed the joint measurements of the disputed properties i.e. gut nos. 137 and 135 on the basis of all the relevant record pertaining to those properties. In clause-4 of the order the learned trial Court has also directed the T.I.L.R. to measure adjacent blocks/lands by giving notice to all concerned and to specifically point out encroachment, if any, found at the suit property. Apparently, I do not see any error in the impugned order. It does not appear to me that, it was necessary for the plaintiff to add all adjacent land owners as defendants in the suit filed by her at the said stage. The writ petition is devoid of any substance and deserves to be dismissed and is accordingly dismissed.

(P.R. BORA)
JUDGE