

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

WRIT PETITION NO. 11401 OF 2018

**RAVINDRA EKNATH KULKARNI
VERSUS
BAPU TATYA SHINDE AND OTHERS**

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Advocate for the Petitioner : Shri V. S. Bedre

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 15th OCTOBER, 2018.

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PER COURT :

1. The petitioner is aggrieved by the order dated 25/07/2018, by which, application Exhibit 101 filed by the plaintiff has been allowed and the D.I.L.R., Ahmednagar is issued with specific directions to act as a court commissioner in RCS No.11/2012.

2. I have considered the strenuous submissions of the learned Advocate for the petitioner and have gone through the petition paper book with his assistance.

3. By an order dated 16/07/2012, the Trial Court had allowed application Exhibit 17 filed by the plaintiff. The TILR,

Ahmednagar was appointed as a court commissioner to carry out the measurement of the suit property which is Survey No. 28/2b, plot No. 1 admeasuring 384.13 sq. mtrs. situated at Bhistbag. The TILR accordingly proceeded to carry out the order of the Trial Court.

4. The recording of evidence in RCS No. 11/2012 is said to be almost over. The TILR was examined as plaintiff witness No.1. He admitted his lapse of not measuring Sy.No. 28/2b. The defendant had contended that some portion of the land is standing in the name of the plaintiff out of Sy.No.28/2b. Since it was revealed by his own admission that the suit property and the said survey number was not properly mentioned by the TILR, the Trial Court has passed the impugned order directing the measurement of the complete Sy. No. 28/2b so that the claim of the plaintiff to the extent of 384.13 sq.mtrs. in the said survey number could be adjudicated upon.

5. I do not find that the impugned order could be termed as being perverse or erroneous. This petition, being devoid of merit is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

shp/-