

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

909 WRIT PETITION NO. 10781 OF 2015

RAMESH BHAUSAHEB KOLTE AND OTHERS
VERSUS
ANNASAHEB DATTU KOLTE AND OTHERS

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Advocate for Petitioners : Mr. Kotkar Sanjay D.
Advocate for Respondent Nos. 1 & 2 : Mr. Palodkar Devdatt P.
Advocate for Respondent No. 3 : Mr. Narwade Narayan B.

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CORAM : V. K. JADHAV, J.
DATED : 18th APRIL, 2018

PER COURT:-

1. Heard finally with consent at admission stage.
2. I find no substance in this Writ Petition. The petitioners/defendants have filed an application exhibit 42 in pending R.C.S. No. 72 of 2015 for appointment of Court Commissioner. On perusal of the impugned order, it appears that there are already two measurement reports submitted before the trial court in the pending suit. The learned counsel for the petitioners submits that even though in the earlier measurement reports, the encroachment has not been shown specifically, in the notes prepared by the person who has carried out the measurement, the encroachment has been shown. However, considering the same, the trial court has granted liberty to the

petitioners to move an application after the evidence of the said person, who has carried out the earlier measurement is over. In view of the same, in case the person who has carried out measurement and submitted report before the trial court gives some unfavourable answers against the interest of the present petitioners, the petitioners are at liberty to file an application for measurement through T.I.L.R. as per the liberty granted by the trial court.

3. The Writ Petition is accordingly dismissed. No costs.

(V. K. JADHAV, J.)

vsm/