

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

918 WRIT PETITION NO. 13182 OF 2017

HARIBHAU BHOJU BHAPKAR
VERSUS
BALU GORAKH BHAPKAR AND OTHERS

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Advocate for Petitioner : Mr. B. A. Shinde h/f Mr. Latange V.P.

AGP for Respondent-State : Mr. S. N. Morampalle

Advocate for Respondent Nos.1 to 4 : Mr. Y. D. Kale h/f

Mr. R. R. Karpe

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CORAM : V. K. JADHAV, J.

DATED : 14th MARCH, 2018

PER COURT:-

1. The petitioner/original plaintiff has filed application exhibit 36 for re-measurement of the suit land alongwith fixation of the boundaries. The trial court has earlier appointed the Deputy Superintendent of Land Records as Court Commissioner to measure the suit land and also the lands of the defendants. In terms of the said directions, the Deputy Superintendent of Land Records, Shrigonda has inspected the spot and carried out measurement and submitted report alongwith map before the court. On perusal of the said report and the map, the

petitioner/plaintiff found that the Deputy Superintendent of Land Records has committed many mistakes in the measurement. The Deputy Superintendent of Land Records has shown the *potkharab* area in the land belonging to the plaintiff and defendant nos. 1 to 4 when there is no entry to that effect in the 7/12 extract. Further, the Deputy Superintendent of Land Records has also committed mistake in showing the area of the land owned and possessed by the petitioner/plaintiff and the respondents/defendants. The petitioner is, therefore, constrained to file application exhibit 36. The Judge of the trial court has rejected the said application with observation that no fault is seen at this stage in the measurement of the Nimtandar.

2. On careful perusal of the contents of the application exhibit 36, though the petitioner/plaintiff has pointed out certain defects in the measurement, it is premature at this stage to say anything in respect of the report and the map submitted by the Deputy Superintendent of Land Records. After examination of the Deputy Superintendent of Land Records before the court and subject to his cross-examination, such an application can be filed if at all there are any mistakes apparent on the face of record in

the measurement report and also in the map. The learned Judge of the trial court has also observed that no fault is seen at this stage.

3. In view of the above, this Writ Petition can be disposed of with liberty to the petitioner to file an application, if required, at any later stage after the examination of the Deputy Superintendent of Land Records before the court and of course, subject to his answers in cross-examination to the so called defects in the measurement. With these directions, the Writ Petition is disposed of. No costs.

(V. K. JADHAV, J.)

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