

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

WRIT PETITION NO. 13779 OF 2018

Trbej Akbar Shaikh

& another

... Petitioners

Versus

Sau. Lata w/o Ambadas Nistane

& others

... Respondents

Mrs. Sabahat S. Kazi, Advocate for the Petitioners.

WITH

WRIT PETITION NO. 13780 OF 2018

Trbej Akbar Shaikh

& another

... Petitioners

Versus

Sau. Jyoti w/o Avinash Gangarde

& others

... Respondents

Mrs. Sabahat S. Kazi, Advocate for the Petitioners.

Coram : N.M. Jamdar, J.

Date : 12 December 2018

Oral Order :

1. By this petition, the petitioners have challenged the order

passed by the learned Civil Judge, Senior Division, Ahmednagar, appointing the Taluka Inspector of Land Records for carrying out survey and measurement of the land.

2. Petitioners have sought to contend that the property of the petitioners is not adjacent to the suit property and the impugned order amounts to collection of evidence.

3. The suit is filed by respondents-plaintiffs contending that the petitioners have encroached on the suit property. This contention will involve ascertainment of boundaries and measurements. For this purpose, if the learned Civil Judge has appointed a Court Commissioner, it cannot be said that the discretion used is perverse. It also cannot be said that the contentions of the petitioners are foreclosed. After the report is submitted, the petitioners can always cross-examine the Court Commissioner and assail the report.

4. In these circumstances, no interference is warranted in the impugned order. Writ petitions are accordingly disposed of.

N.M. Jamdar, J.