

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 215 OF 2018**

Bhalchandra Haribhau Tingre ..Petitioner
versus
Ganesh Vitthal Tingre through Power
of Attorney Holder Mantra Buildcon
& Ors. ..Respondents

Mr. S. S. Kulkarni i/b. Mr. C. Nikte for Petitioner.
Mr. B. V. Samant – AGP for State.

**CORAM: S. C. DHARMADHIKARI &
SMT. BHARATI HARISH DANGRE, JJ.**

DATE : 09TH JANUARY, 2018

P. C. :

1] By this petition the petitioner is seeking to quash and set aside the measurement which is proposed to be undertaken of a land more particularly described in prayer clause (a) of the petition.

2] At the same time, the petitioner says that there is a dispute which is subject matter of a pending suit. The 1st respondent to this petition is a party to the suit. The grievance of the petitioner is that the measurement may be taken by the concerned Authority but in the teeth of a pending appeal before the 2nd respondent. He is not only seized of the pending appeal but equally a stay application therein.

3] When this matter was mentioned in the morning session, we indicated to Shri Kulkarni appearing for the petitioner that there are

several remedies available to the petitioner particularly making the appropriate applications in the pending suit in the event any measurement is taken and any steps in pursuance thereof which are detrimental to the interest of the petitioner in any manner. Our anxiety was to ensure that the Deputy Director of Land Records 2nd Respondent disposes of at least the stay application.

4] Since the measurement is likely to take place, let the Deputy Director of Land Records 2nd Respondent to this petition take up the stay application of the petitioner tomorrow i.e. 10th January 2018 and pass appropriate orders thereon. He shall not only hear the petitioner but any other affected party as well. All contentions of both sides on the merits of the stay application are kept open.

5] In the event any measurement is made that shall abide by the final orders in the appeal before the 2nd respondent so also it would be subject to the pending suit between the parties.

6] We dispose of this petition with the above directions simply because the learned AGP who was informed to take instructions from the concerned Authorities was not able to speak to the 2nd respondent personally as he was conducting other hearings and therefore the learned AGP to inform him about this Court's order and directions so that he can take up the proceedings as directed tomorrow.

7] Writ petition is disposed of.

(SMT. BHARATI H. DANGRE, J.)

(S. C. DHARMADHIKARI, J.)