

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

**902 WRIT PETITION NO.1169 OF 2014
WITH WP/1193/2014**

SAHEBRAO SIDABA KAPASE AND OTHERS

... Petitioners

VERSUS

PRAKASH KRUSHANAJI HITNALIKAR

AND ANOTHER

... Respondents

...

Advocate for the Petitioners : Shri V.P. Savant;

Advocate for the Respdts (in WP No.1193 of 2014): Shri S.G. Chapalgaonkar.

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CORAM : P.R. BORA, J.

Dated: June 20, 2019

PER COURT :-

1. With consent of the learned Counsel appearing for the parties, both the petitions are heard finally.

2. Being aggrieved by the common order passed on 31.12.2013 by Civil Judge, Jr. Division, Georai below applications Exhs.88 and 104 in Regular Darkhast No.30 of 1974, the present petitions are filed.

3. The application at Exh.88 was filed by the decree holder, whereas the application at Exh.104 was filed by the Judgment Debtor. The application at Exh.88 was filed by the Decree Holder seeking directions to T.I.L.R. to fix boundary marks of Gut Nos.338 and 339 as per the measurement dated 08.01.2008 in presence of the

bailiff and to handover the possession of the encroached land. The application at Exh.104 was filed by Judgment Debtor Nos.2 to 7 to appoint the T.I.L.R., Georai as Court Commissioner to get measured Gut Nos.338 and 339 and to fix the boundaries as per decree in Regular Civil Suit No.42 of 1972 and to give equal $\frac{1}{2}$ land to Decree Holder and Judgment Debtors in both the lands.

4. After considering the applications on merits, the learned Civil Judge allowed the application filed by the Decree Holder at Exh.88, whereas rejected the application filed by the Judgment Debtors at Exh.104. Aggrieved by, the Judgment Debtors are before this Court in the present writ petitions.

5. When the present writ petitions are taken up for hearing, it is brought to my notice that, the T.I.L.R. has fixed the boundary marks of Gut Nos.338 and 339, as per the measurements previously carried out, in presence of the bailiff and has also handed over the possession of the land, found to be encroached by the present petitioners – Judgment Debtors, to the Decree Holders. Thus, the common order dated 31.12.2013, which has been impugned in these writ petitions, has been fully complied with. Both the writ petitions have, therefore, become infructuous. In the circumstances, without

going into the merits of the objections, factual as well as legal, raised in the present writ petitions by the respective parties, both the writ petitions stand disposed of being infructuous.

(**PR. BORA, J.**)

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