

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

WRIT PETITION NO. 4814 OF 2019

VISHWANATH LINGURAM ARERAO THROUGH LRS
JANKABAI VISHWANATH ARERAO AND OTHERS
VERSUS
RAM TUKARAM ARERAO THROUGH LRS VITHABAI RAM
ARERAO THOROUGH LRS DAGADU RAMA ARERAO

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Advocate for the Petitioners : Shri S. S. Halkude

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 04th DECEMBER, 2019

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PER COURT :

1. The petitioner / decree holders have challenged the order dated 26/10/2016 passed by the executing Court, by filing this petition on 22/04/2018. The first hearing in this matter has taken place on 21/11/2019 and no orders have been passed.

2. I have considered the strenuous submissions of the learned Advocate for the petitioners and have gone through the seven grounds formulated

in the memo of the petition.

3. Contention is that the executing Court should only refer to the map attached to the decree while filing the execution proceeding and should pass effective orders so as to ensure that the decree is fully executed.

4. By the impugned order, the Trial Court has directed the TILR, Nilanga to act as a court commissioner for measurement of Survey No. 20 and fix the boundaries of 2 Hectors 42 R. land from Gat No. 68 subject to the payment of expenses by both the sides. Further direction is issued to measure land Survey No. 20 and separate 2 Hectors 42 R land from Gat No. 65 and hand over the possession to the L.Rs. of the decree holder.

5. The impugned order reveals that earlier a court commissioner was appointed for the

measurement of the decreetal property. The concerned department has measured the land and submitted a report and the map. The order passed below Exhibit 39 directing such measurement reveals that only Survey No. 20/A (Gat No.68) was directed to be measured and possession of 38 Gunthas was to be handed over to the decree holder. The measurement map shows only 30 R. land.

6. Both the parties had opposed the report of the TILR and both had demanded a fresh measurement.

7. Considering the above, I do not find that the impugned order could be termed as being perverse or erroneous. This petition, being devoid of merit is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

shp/-