

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8071 OF 2019

Sachin Vitthalrao Suryawanshi ...Petitioner

Versus

Alka Rajkumar Vyawahare ...Respondent

.....
Mr. R.K.Ingole, Advocate for the Petitioner.
.....

CORAM : RAVINDRA V. GHUGE, J.

DATE : 03-07-2019.

PER COURT :

01. The petitioner-original plaintiff is aggrieved by the Order dated 17.3.2018 passed by the Trial Court below Exh. 69 in R.C.S. No. 46/2010. By the said Order, the District Superintendent of Land Records is directed to jointly measure the lands of the plaintiff and the defendant. As per the Orders passed by the learned District Judge, Hingoli below Exh. 19, the Court Commissioner is directed to consider the four boundaries mentioned in the sale deed in the land of the defendant while carrying out the measurement.

02. The petitioner has strenuously criticized the

Order and submits that subsequently the Court Commissioner has carried out the measurements as per the impugned Order and has submitted his report and sketch map to the Court. However, he has not performed his duty strictly as per the impugned Order and has erroneously carried out the measurement. Certain vital issues have not been considered by him and therefore, his measurement is defective and the report is unreliable.

03. Notwithstanding the strenuous submissions, I find that the petitioner is not remedyless. It is settled law that after the Court Commissioner submits his report and the sketch map, the aggrieved parties to the litigation are at liberty to examine the Court Commissioner and establish before the Court that the measurement is defective or the report is unreliable. This liberty being available to the petitioner, needs to be availed of.

04. In view of the above, this petition is disposed off and the petitioner would be at liberty to examine the Court Commissioner as is permitted in law.

[RAVINDRA V. GHUGE]

JUDGE

Dahibhate/-