

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

940 WRIT PETITION NO.5140 OF 2019

AMBADAS YADAV KARDILE AND ANOTHER
VERSUS
ASHU KONDIBA KHARAT AND OTHERS

...
Advocate for Petitioners : Mr. Ambekar Arvind G
Advocate for Respondents :Mr. P.R. Nangare
...

CORAM : **RAVINDRA V. GHUGE, J.**

Date: July 26, 2019
...

PER COURT :-

1 The petitioners, who are the original plaintiffs, are aggrieved by the order of the Trial Court dated 7.3.2019, by which Application Exhibit 102 in RCS No.15/2018, seeking measurement of the suit property through the District Superintendent of Land Records, has been rejected.

2 The learned Advocate for the petitioners has strenuously criticized the impugned order. He draws my attention to the 16 grounds formulated in the memo of the petition.

3 I have considered the petition paper book and the record available with the assistance of the learned Advocates for both the sides.

4 It is undisputed that, the suit was earlier decreed and was carried in Regular Civil Appeal to the first Appellate Court. By the Judgment of the Appellate Court, the suit was remanded and an

opportunity was granted to get the suit property measured. Accordingly, the Trial Court had issued necessary directions and the TILR measured the suit land. The report and the map have been placed on record. The petitioner desires that, the DSLR should now, measure the land as the earlier measurement is defective or unreliable.

5 The law is well settled that, if a party is aggrieved by the work performed by the Court Commissioner and finds that, the measurement is defective or unreliable, evidence has to be led and the Court Commissioner can also be examined or cross-examined. The Trial Court has noted in the impugned order that the appellate Court itself has granted opportunity to the parties to lead evidence.

6 In view of the above, I do not find that the impugned order can be termed as being perverse or erroneous.

7 The Petition, is, therefore, dismissed.

(RAVINDRA V. GHUGE, J)