

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7065 OF 2019
(Ramling s/o Bhimrao Kasbe and others Vs. Hakim A Hai.Usmani)

Mr.M.L.Dharashive, Advocate for the petitioners.
Mr.A.G.Dalal, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)
DATE : 28/06/2019

PER COURT :

1. The petitioners/defendants are aggrieved by the order dated 17/01/2019 passed by the Trial Court vide which application Exh.146, seeking appointment of a Court Commissioner in RCS No.482/2011, has been allowed after the recording of oral evidence has been concluded. Grievance of the petitioners is that the Deputy Superintendent of Land Records has been appointed as a Court Commissioner to measure land Survey No.107 and 74 when the plaintiff had prayed for measuring land Survey No.107 only.

2. Learned Advocate for the original plaintiff submits that the impugned order has already been executed, the measurement has been completed and the report has been submitted.

3. In my view, it is settled law that in matters, where there are

boundary disputes, joint measurement of all the suit properties is always in the interest of justice. This view has been taken in the following matters :-

[a] Sanjay Namdeo Khandare Vs. Sahebrao Kachru Khandare and others [2001 (1) Bom. C.R. 800].

[b] Kolhapuri Bandu Lakade Vs. Yallappa Chinappa Lakade [2011 (3) Bom.C.R.807].

[C] Bento Antonio Gomes @ Antonio Bento Gomes Vs. Rosario Salvador Carneiro and others [2014 (4) Mh.L.J. 360]

4. Though the grievance of the petitioners is that the Trial Court has exercised Section 151 of the CPC and this would amount to an over reach of its jurisdiction, I do not find that the said contention is sustainable.

5. In view of the above, this petition, being devoid of merit, is therefore, dismissed.

(Ravindra V.Ghuge, J.)