

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6521 OF 2019

RAMAKANT SHANTINATH ANDURE ...PETITIONER

VERSUS

THE STATE OF MAHARASHTRA
AND OTHERS ...RESPONDENTS

Mr. B.G. Sagade, Advocate for Petitioner
Mr. V.M. Kagne, AGP for Respondents-State

**CORAM : S.V. GANGAPURWALA AND
ANIL S. KILOR, JJ.**

DATE : 26th AUGUST, 2019

ORAL ORDER:

1. The learned Counsel for the petitioner submits that the petitioner is owner of land Gut No. 188-A. He has filed application for measurement. He has also deposited the measurement fee along with challan. However, the respondent rejected the application and did not measure the land on the ground that civil suit is filed. In the civil suit bearing RCS No. 84/2018, the petitioner is not party to the suit and the said suit is with regard to Gut No. 188-C.

2. As per the contention of the learned Assistant Government Pleader, there is no division of Gut No. 188. In the civil suit, ex parte ad-interim injunction is granted restraining the defendants from further causing obstruction to the plaintiffs possession over land Gut No. 188.

3. There will be no impediment for the authority to measure the land upon an application of interested person. Of course, measurement may not bind the parties to the suit. There are no prohibitory orders from the Civil Court for restraining the measurement.

4. In light of the above, there would be no impediment for the authority to measure the land as per its tippan. The parties to the civil suit may not be prejudiced by the measurement as it is not upon application to the parties nor under the direction of the Court measurement is carried. The said measurement may not bind the parties, who have not applied for the measurement or who are not present for the measurement. The said measurement only will be to the extent of the petitioner.

5. The authorities may measure the land Gut No. 188-A as per the 7/12 extract and the record of tippan as may be available.

6. With these observations, the Writ Petition is disposed of.
No costs.

[ANIL S.KILOR]
JUDGE

[S.V.GANGAPURWALA]
JUDGE