

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

6. WRIT PETITION NO. 498 OF 2020

Thakaji Dagadu Sase,
age years occupation agriculture
R/o Darewadi Taluka & Dist. Ahmednagar ...Petitioner

Versus

1. Krushna Shivaji Gawali, age 41 years,
2. Mandakini W/o Sham Gawali, age 31 years,
3. Shanda Sham Gawali, age 17 years,
4. Ganesh Sham Gawali, age 15 years,

Nos. 3 & 4 minor, U/G. of their natural guardian Respt. No.2

5. Sonyabapu Dagadu Sase (died)
through legal representatives:

- 5/A. Balu S/o Sonyabapu Sase, age 51 years,
- 5/B. Santosh S/o Sonyabapu Sase, age 45 years,
- 5/C. Parigabai Sonyabapu Sase, age 71 years,

Nos. 1, 2, 5/A to 5/C agriculturists by occupation
& R/o Darewadi Taluka & Dist. Ahmednagar

- 5/D. Babai W/o Murlidhar Gore, age 43 years,
- 5/E. Sumitra W/o Shekhar Gore, age 41 years,

Nos. 5/D & 5/E household by occupation &
R/o Ruichhattisi Tal. & Dist. Ahmednagar

- 5/F. Sangita W/o Baban Kasar,
age 40 years occup. household
R/o Dhondwadi , Walki Tal. & Dist. Ahmednagar

- 5/G. Sharmila W/o Satish Walke,
age 37 years occup. household
R/o Loni Sayyadmir Tal. Ashti Dist. Beed

6. Bhagwan Dagadu Sase, age 55 years
7. Radhabai W/o Gorakh Darekar, age 53 years

8. Namdeo Shivaji Gawali, age 48 years

Nos. 6 to 8 agriculturists by occupation and
R/o Darewadi Tal. & Dist. Ahmednagar

...Respondents

Mr. S.N. Suryawanshi, Adv., h/f. Mr. D.J. Patil, Adv. for petitioner

CORAM : ROHIT B. DEO, J.

DATE : 27th January, 2020

PER COURT :

1. Petitioner-defendant No.1 in Reg. civil suit No. 710/2013, brought by the plaintiffs-respondents No.1 to 4 for perpetual injunction, is aggrieved by the order dated 29th July 2019 rendered by the Court of IV Joint Civil Judge (Senior Division), Ahmednagar, whereby application Exh. 91 preferred by defendant No.1 seeking a direction that the commission be executed personally by the Deputy Superintendent, Land Records, Ahmednagar, is rejected.

2. Concededly, the measurement is carried out by Smt. Musale, who is Surveyor. It is not in dispute that she is competent to measure the land. However, defendant No.1 contended that the Trial Court had directed the Dy. Superintendent, Land Records, Ahmednagar, to carry out the measurement personally.

3. Perusal of the order impugned would show that the measurement carried out by Smt. Musale, Surveyor, was not

specifically challenged. A vague objection was taken that since the measurement was carried out by Smt. Musale, contrary to the order of the Trial Court, the measurement is flawed. The other objection, which is of a general nature, is that Smt. Musale did not follow the requisite norms and the Government record.

4. I have perused application Exh. 91. The Trial Court is right in observing that there is no specific challenge to the measurement carried out by Smt. Musale, Surveyor. In view of the undisputed position that Smt. Musale is indeed competent to carry out the measurement, I do not see any reason to interfere with the order impugned in writ jurisdiction.

5. However, if the petitioner-defendant No.1 has any specific objection to the measurement carried out by Smt. Musale, he is at liberty to challenge her report and measurement in accordance with law and if appropriate application is made, this opportunity shall be granted to defendant No.1 by the Trial Court without being influenced by any observation in the order impugned.

6. The petition is disposed of.

(ROHIT B. DEO)
JUDGE