

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Writ Petition No. 7876 of 2019

Subhadrabai Shedge (D) Through LRs and others Vs. Narayan Malhari
Karpe (D) through LRs and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S.O. Ahmed, Advocate for the petitioners
Mr. R.G. Kavimandan for the respondents No.1 and 2.
Mrs. Mrunal Naik, AGP for the respondent No.3.

CORAM : MANISH PITALE, J.

DATED : JANUARY 21, 2020

By this writ petition, the petitioners (original defendants) have challenged order dated 15/4/2019, passed by the Court of Civil Judge (Junior Division), Chikhali (Trial Court), whereby application for appointment of Court Commissioner filed by the respondent plaintiff under Order 26 Rule 9 of the Code of Civil Procedure (CPC) was allowed.

2. While issuing notice on 03/12/2019, this Court held that joint measurement of the land of the plaintiffs and defendants was warranted in the light of the fact that the suit was for removal of encroachment. It was also recorded that to that extent, there is no reason to interfere with the impugned order. However, it was clarified that when the joint measurement is

carried out by the Court Commissioner, the parties could rely upon their respective documents also. The nature of order passed by this Court on 03/12/2019, clearly shows that the dispute between the parties could be resolved with the assistance of the Court Commissioner.

3. Therefore, in view of specific observations made by this Court in order dated 03/12/2019, nothing would survive in this writ petition. But in order dated 3/12/2019, this Court has referred to prayer made on behalf of the petitioners for direction to the Tahsildar to decide application dated 25/5/2012, filed by the petitioners for correcting the revenue record. Notice was issued to consider the said prayer.

4. The learned AGP, appearing on behalf of the respondents, submits that she has instructions to state that the Tahsildar has indeed issued notice to rival parties on the aforesaid application filed by the petitioners for correcting the revenue record and that the parties have sought time to place on record relevant documents for decision on the said application. Thus, it is abundantly clear that grievance of the petitioners with regard to the said proceedings before the Tahsildar is also being addressed. In view of the above, the writ petition is disposed of by confirming the order passed by the Trial Court, with

direction to the Tahsildar to decide the application filed by the petitioners for correcting revenue record as expeditiously as possible.

JUDGE

MP Deshpande