

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

910 WRIT PETITION NO.1176 OF 2021

ANITA GOVARDHAN PAWAR AND OTHERS
VERSUS
GULMARG HOUSING SOCIETY MUSHTAFABAD THROUGH
IT'S CHIEF PROMOTER

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Advocate for Petitioners : Mr. Bhadekar D.R.

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CORAM : V.K. JADHAV, J.

Dated: January 21, 2021

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PER COURT :-

1. I have heard the learned counsel for the petitioners at length.

2. The petitioners/plaintiffs have instituted a suit bearing RCS No.416 of 2011 simplicitor for a decree of perpetual injunction. During the pendency of the suit, plaintiffs have filed an application exh.148 for certain relief. According to the petitioners/plaintiffs, the suit is filed for perpetual injunction in respect of gat no.71 (old survey no.47) situated at village Satara, Tq. and District Aurangabad and the suit is based on title. Petitioners/Plaintiffs relied upon the registered sale deed dated 21.12.2004. According to the petitioners/plaintiffs

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as per the averments in the plaint, measurement of the suit property was carried out on 13.7.2005, 10.9.2008 and 11.9.2008. Initially, on the basis of the application filed by the petitioners/plaintiffs, the trial court has issued summons to the witness of the office of S.L.R, Aurangabad for evidence, however, the Deputy Superintendent of Land Records, Aurangabad has filed on record the letter dated 6.8.2019 at exh.139. It appears that record pertaining to the said measurement came to be destroyed in terms of the circular of the Settlement commissioner.

3. The petitioners/plaintiffs have filed an application for examination of the witness from TILR office Aurangabad by calling the record dated 21.9.2019. According to the petitioners/plaintiffs, the suit is principally based on the measurement dated 13.7.2005. The measurement dated 21.9.2019 is in continuation and similar to the measurement carried out in the year 2005. However, in my considered opinion, in a suit simplicitor for a decree of injunction, this exercise as

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undertaken by the petitioners/plaintiffs by filing an application exh.148 is unwanted and uncalled for. I do not find any error in the impugned order passed by the trial court. Hence, following order.

O R D E R

Writ petition is hereby dismissed.

(V.K. JADHAV, J.)

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