

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

948 WRIT PETITION NO. 14229 OF 2019

KALLINATH S/O SHIVYOGI DHANGE
VERSUS
THE DEPUTY SUPERINTENDENT OF LAND RECORD, OMERGA AND
OTHERS

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Advocate for Petitioner : Mr. Abasaheb D. Shinde
AGP for Respondent No. 1: Mr. S. B. Pulkundwar
Advocate for Respondent No.3 : Mr. S.N. Patne
Advocate for Respondent No.4 : Mr. L.C. Patil
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CORAM : V. K. JADHAV, J.
DATED : 27th JANUARY, 2021

PER COURT:-

1. By consent, heard finally at admission stage.
2. Though the trial court has wrongly observed that this Court has accepted the report submitted by the Court Commissioner by order dated 30.8.2019 passed in writ petition No. 4647 of 2019, however, it appears that the Superintendent of Land Records has complied with the directions given by this Court (Coram: Ravindra V. Ghuge, J.) vide order dated 18.6.2019 in writ petition No. 4647 of 2019, particularly para 12 clause Nos. (a) to (d). Since the Superintendent of Land Records has submitted the report in compliance with the directions given in the aforesaid order, in the subsequent order dated 30.8.2019, this Court has accepted the said report. It does not mean that this Court has accepted the said report in toto and as such, the

parties are prevented to raise any dispute about the said measurement report.

3. It appears that as per the applications filed by the petitioner Exh.111 and 112, it has been brought to the notice of the trial court in the manner that the Court Commissioner has not correctly shown the length and width and further failed to show any encroachment. However, the Court Commissioner, if his report is not accepted by the petitioner, is required to be examined before the Court as a Court witness and the petitioner would get ample opportunity to cross examine the said witness.

4. In view of above, after examination and cross examination of the said Superintendent of Land Records is over, the petitioner would be at liberty to file an application for appointment of Court Commissioner, if so required, and it is for the trial court to consider the same on its own merits after giving an opportunity of being heard to both the parties and further, in the light of the examination and cross examination of the said witness. At present, I am not inclined to disturb the order impugned in this writ petition.

5. With the above observations, writ petition stands disposed of.

(V. K. JADHAV, J.)