

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

**APPEAL FROM ORDER NO.5 OF 2020
WITH
CA/1513/2020 IN AO/5/2020**

Baliram s/o. Trimbak Choudhari
and ors.

..Appellants

Vs.

Bhavrao s/o.Ramchandra Pathade
and anr.

..Respondents

Mr.V.B.Garud, Advocate for appellants
Mr.S.P.Pandit, Advocate for respondents

**CORAM : R.G. AVACHAT, J.
DATE : SEPTEMBER 29, 2021**

ORDER :-

Heard.

2. The challenge in this appeal is to the order remanding the matter back to the trial Court for appointment of T.I.L.R. for measurement of the disputed lands. It is a suit for removal of encroachment and possession of the encroached land.

3. Mr.Garud, learned counsel for the appellants, submits that the Surveyor had been appointed thrice. No encroachment has ever been shown in the maps drawn by the Surveyor. According to him, no

fruitful purpose would be served by remanding the matter. According to him, how many times the defendants are to be vexed.

4. Perused the impugned order. In paragraph 9 thereof, it has been observed by the appellate Court that in cross-examination of the Surveyor, various lapses and flaws were noticed. The Surveyor did not verify the maps of the lands bearing survey numbers and block numbers. No boundary marks were fixed. North-south directions were also not fixed when the measurement was commenced. The appellate Court also observed that the concerned Surveyor did not know various methods of survey and thus, he carried on survey by plane table method. It, therefore, appears that the appellant Court has rightly remanded the matter back to the trial Court to have the lands surveyed again.

5. This Court finds no reason to interfere with the impugned order. The appeal is dismissed. The Civil Application stands disposed of.

[R.G. AVACHAT, J.]

KBP