

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2913 OF 2014

Satwa Rangrao Kale,
 Age 49 years, Occu. Agri., R/o. Depegaon,
 Tq. Majalgaon, Dist. Beed.

.. Petitioner
 (Original Plaintiff)

Versus

Jankiram Pralhad Shinde,
 Age 49 years, Occu. Agri.,
 R/o. Sandas Chincholi, Tq. Majalgaon,
 Dist. Beed

.. Respondent
 (Original Defendant)

...

Mr. Vivek Vasantrao Bhavthankar, Advocate for Petitioner
 Mr. Milind M. Patil (Beedkar), Advocate for Respondent

...

CORAM : NITIN B. SURYAWANSHI, J.
DATE : 02-02-2022

PER COURT :-

This writ petition is directed against the order passed by the learned 3rd Civil Judge, Junior Division, Majalgaon, District Beed, below application Exhibit-70 in Regular Civil Suit No. 93 of 2011, thereby rejecting the application filed by the petitioner-original plaintiff for appointment of Taluka Inspector of Land Records (TILR) as Court-Commissioner to examine entire Gat No. 2 and show the respective occupancy of agriculturists in Gat No. 2.

2. Earlier TILR was appointed as Court Commissioner and he submitted his report, which is accepted by the petitioner. The petitioner filed present application contending that in the said report the Commissioner has only disclosed 3 R. land out of 31 R

possessed by the petitioner. He has not disclosed in the report as to who is in possession of the remaining portion of the 31 R. land. The petitioner, therefore, prayed that entire Gat No. 2 should be measured and, inadvertently, he has admitted the Commissioner's report.

3. The trial Court rejected the said application holding that earlier Commissioner was appointed to measure Gat No.2 and he was directed to show the encroached area in red colour. Accordingly, the Commissioner has measured the land and submitted his report. The petitioner has failed to show as to how the said report is incorrect or not proper. The petitioner cannot collect the evidence through the Court Commissioner.

4. Taking into consideration the pleadings of the petitioner and the impugned order, the trial Court, in the facts of the case, is justified in passing the impugned order. There is no illegality or perversity in the order impugned in the present writ petition. The writ petition is dismissed.

5. In the peculiar facts of this case, liberty is granted to the petitioner to apply for cross-examination of the Court-Commissioner. The trial Court to consider the application on its own merits.

(NITIN B. SURYAWANSHI)
JUDGE