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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10727 OF 2015

Sumanbai Tukaram Khokale

PETITIONER

VERSUS

Shamrao Dattarao Khokale and Others

RESPONDENTS

.....
Ms. Rekha Choudhary h/f Mr. S.S. Choudhari, Adv for petitioner
Mrs. M. A. Kulkarni, Advocate for respondents No. 1 to 9
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 19th SEPTEMBER, 2022

ORDER :

1. The petitioner is aggrieved by the order passed by the learned Civil Judge, Junior Division, Kalamnuri below Exhibit-28, thereby rejecting the application filed by the petitioner for joint measurement of the land in question and adjoining lands.
2. The petitioner has filed Regular Civil Suit No. 91 of 2013 for removal of encroachment and possession of the encroached portion of 33 Are land from the defendants. The petitioner – plaintiff has led his evidence and the evidence of Taluka Inspector of Land Records (TILR), who had carried out measurement of the suit land in the year 2011. It appears from the evidence of the TILR that he has brought on record that the

defendants are in possession of excess land than the land shown in their seven twelve extracts.

3. After the evidence of the TILR is over, the petitioner has filed present application Exhibit-28 for joint measurement contending that after conducting joint measurement, the area of the plaintiff and the defendants be corrected as per the area mentioned in seven twelve extract. This application is rejected by the Trial Court holding that already the measurement of the suit land i.e. survey No. 41 including its sub divisions is carried out by the TILR and map Exhibit-48 is placed on record and, therefore, there is no reason to again carry out the joint measurement of the said survey number.

4. Heard learned advocate for the petitioner and learned advocate for the respondents. Perused the documents placed on record and the grounds raised in the writ petition.

5. Admittedly, the petitioner has already examined the TILR who has brought on record the position that the defendants are in possession of excess land than the lands shown in their seven twelve extract. The measurement map Exhibit-48 is already on record. In that view of the matter, the Trial Court is justified in holding that again joint measurement is not necessary. No

illegality or perversity is found in the order impugned in the present petition to warrant exercise of extraordinary writ jurisdiction.

6. Writ petition being devoid of merit, is dismissed. Considering the fact that the suit is of the year 2013, its hearing is expedited.

[NITIN B. SURYAWANSHI]
JUDGE

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