

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.11887 OF 2022**

VILAS NAVNATH GADE AND OTHERS
VERSUS
PRAMOD SHRIRAM GADE AND OTHERS

...
Mr. Rajendra S. Kasar, Advocate for the Petitioners.

...
**CORAM : SANDEEP V. MARNE, J.
DATED : 29th NOVEMBER, 2022.**

PER COURT:-

1. The petitioners assail the order dated 02.08.2022 passed by the 2nd Joint Civil Judge, Junior Division, Rahuri thereby rejecting the application of petitioners/original defendants for appointment of Court Commissioner for measurement of the land.

2. On earlier occasion, on an application being made by petitioners/original defendants, Court Commissioner was appointed for measurement of the suit land by order dated 13.12.2007. Accordingly, the suit land had been measured and the report and map is on record. The Taluka Inspector of Land Records (TILR) who conducted the measurement is yet to be examined as witness. The evidence of petitioners/original defendants is still underway. At this stage petitioners/original defendants moved an application for re-measurement of land by appointment of Court Commissioner. The application has been turned down by the Trial Court.

3. In my view, TILR who has earlier conducted the measurement of the suit land is yet to be examined as witness. If petitioners/original defendants are of the opinion that there is any

lacuna in the measurement conducted by TILR, they are at liberty to cross-examine TILR whenever he steps into the witness box. Even otherwise, after recording of the entire evidence is over, the Trial Court is of the opinion that the earlier measurement conducted by TILR does not reflect the extent of encroachment, the Court is competent to carry out re-measurement if it comes to a conclusion that it is absolutely necessary to do so.

4. The application of petitioners/original defendants has rightly being rejected by the Trial Court. The petition is devoid of merits and the same is dismissed without any orders as to cost.

(SANDEEP V. MARNE)
JUDGE