

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6357 OF 2017

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Shri. Shamrao Balwant Bodake
Since deceased through legal heirs
Smt. Sonabai Shamrao Bosake and Ors. ..Petitioners
Versus
Shri. Dinkar Shankar Bodake and Anr. ..Respondents

Mr. Abhijit M. Adagule, for the Petitioners.
Mr. Sandeep S. Koregave, for the Respondent Nos.1 & 2.

CORAM : NITIN W. SAMBRE, J.

DATE : 25th MARCH, 2022

PC.

1. Since the suit is for recovery of encroached area which is not consistent with map which is also not in scale, petitioners moved an application in 2014 for measurement by appointing Court Commissioner which was allowed.

2. However, order was not taken to its logical end because of technical reasons, which has prompted petitioners to take out another application, which is rejected vide impugned order.

3. Issues in the suit are framed.

4. Since the counsel for the petitioners in response to the Court's query submits that petitioners may be permitted to carry out

private measurement.

5. As such, petition stands disposed of as withdrawn as prayed.

6. The petitioners are at liberty to produce report of private measurement.

7. In the aforesaid background, if so required, at subsequent stage, it shall be open for the petitioners to move for appointment of Court Commissioner in accordance with law and having regard to the fact that the earlier order for appointment of Court Commissioner was not questioned.

[NITIN W. SAMBRE, J.]