

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 1420/2020

Zahir Abbas Akbar Ali vrs. Sheikh Aarif Sheikh Ahemad and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.S.I.Ghatte, Advocate for petitioner

Mr. S.D.Chande, Advocate for Respondent Nos. 1 to 4, 7 & 8

CORAM : AVINASH G. GHAROTE, J.

DATE : 11/08/2022

1] Heard Mr. Ghatte, learned counsel for the petitioner and Mr. Chande, learned counsel for the respondents.

2] The petition questions the order dated 7.1.2020 (page 64) whereby the application at Exh. 47 filed by the plaintiff for joint measurement of the land of Survey Nos. 477/1 477/1B and 477/1D, situated at Malkapur, Dist. Buldhana for the purpose of fixation of boundaries, has been rejected.

3] It is an admitted position that the suit which has been filed is a suit for removal of encroachment and possession. It is the settled position of law that in a suit for encroachment, the best possible way to determine the existence or non-existence of the encroachment is the joint measurement of the property, which would in fact assist the Court in effectively deciding the suit,

(2)

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considering which, the impugned order dated 07.01.2020 is hereby quashed and set aside and the application below Exh. 47 is allowed, however at the cost of the plaintiff. No costs.

JUDGE

Rvjalit