

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

23 WRIT PETITION NO.78 OF 2023

**DNYANOBA DADARAO SHELKE
VERSUS
BHIMASHANKAR BHAURAO TANDALE**

...
Advocate for Petitioner : Mr. S.S. Jangada h/f. Mr. M. S. Shaikh
...

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 11-01-2023

PER COURT :

. Heard the learned counsel for the petitioner.

2. The petitioner is aggrieved by the order dated 17.08.2022 passed by Civil Judge Senior Division, Parbhani below Exh.54 in R.C.S. No.37 of 2016 rejecting the petitioner's application for re-measurement. The learned counsel for the petitioner submits that the application for appointment of Court Commissioner was allowed and the commission was executed on 11.10.2018 and 12.10.2018. However no report was filed and thereafter by notice dated 05.04.2019 the T.I.L.R. fixed a date for measurement as against which the respondent herein issued a legal notice dated 23.04.2019. Subsequently, the T.I.L.R. has filed a report on 03.08.2019. He further submits that perusal of the report shows that the T.I.L.R., being pressurized by issuance of a legal notice, have submitted an

ambiguous report.

3. Perused the application dated 24.01.2022 filed by the petitioner for re-measurement. The application has been filed only on the ground that being pressurized by the respondent, the Court Commissioner has filed a wrong report to the Court. In my view, the reasons advanced by the petitioner for re-measurement are not just and proper and the trial Court has rightly rejected the said application. In event of any ambiguity in the Court Commissioner's Report, the petitioner is at liberty to raise the objections in that respect before the trial Court. However, merely on the basis of the apprehension that due to the legal notice the Court Commissioner was pressurized, an application for re-measurement cannot be made.

4. There is no merit in the petition and the same is dismissed.

(SHARMILA U. DESHMUKH, J.)