

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

APPEAL FROM ORDER NO. 1 OF 2019

Pratapsing S/o Khushalsing Gairwal
& others

Appellants

Versus

Keshavrao S/o Namdeo Dhawle & others

Respondents

Mr. S. J. Salunke, Advocate for the appellants

Mr. S. P. Shah, Advocate for respondent No. 1.

CORAM : R. M. JOSHI, J.

DATE : 10th APRIL, 2023.

PER COURT :

1. This Appeal from Order takes exception to the order dated 30th October, 2018 passed by the First Appellate Court in Regular Civil Appeal No. 193/2012 whereby the suit was remanded back to the Trial Court with a direction to appoint Cadastral Surveyor as Commissioner at the cost of defendants for taking measurement of entire area of 3 H 74 R land situated in Gat No. 32 of Mauje Daregaon.

2. Perusal of record indicates that plaintiffs filed suit for injunction in respect of the aforesaid property. Learned Trial Court as well as First Appellate Court have not accepted the report of

Cadastral Surveyor which was already placed on record. In such circumstances, the First Appellate Court was left with no other alternative but to remand the suit for trial with direction for appointment of Cadastral Surveyor as Court Commissioner to remeasure the suit property. In view of the judgment of his Court in the case of Vijay s/o Shrawan Shende and others vs. State of Maharashtra and others, **2009(5) Mh. L. J. 279**, no fault can be found with the said direction.

3. In the result, Appeal from Order stands dismissed with costs.

(R. M. JOSHI)
Judge

dyb