

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.586 OF 2023

Lataben Mohansinh Jadhav,	]	
Wife of Rajendrasinh A. Rathod	]	.. Petitioner
Vs.		
1. The Mamlatdar,	]	
Silvassa, Dadra and Nagar Haveli	]	
2. The Resident Deputy Collector,	]	
Silvassa, Dadra and Nagar Haveli	]	
3. The Survey and Settlement Officer,	]	
Silvassa, Dadra and Nagar Haveli	]	.. Respondents

Mr. Mandar Soman, with Mr. Hardik Joshi, for the Petitioner.

Mr. H.S. Venegavkar, with Mr. Aayush Kedia, for Respondent Nos.1 to 3.

CORAM : SUNIL B. SHUKRE &
FIRDOSH P. POONIWALLA, JJ

DATE : 12TH SEPTEMBER, 2023.

ORAL JUDGMENT : { Per Sunil B. Shukre, J. }

1. Heard. Rule. Rule is made returnable forthwith, by consent of learned counsel for the parties.

2. Mr. Venegavkar, learned counsel for respondent nos.1 to 3 submits, on instructions, that respondent nos.2 and 3 are ready to carry out measurements, as desired by the petitioner.

3. The person who is alleged to have encroached upon the land belonging

to the petitioner has not been joined as party-respondent here. At the same time, we find that it would be the duty of respondent nos.2 and 3 to carry out the measurements upon payment of necessary charges by the petitioner by following the established procedure of law. In such circumstances, what can be done by respondent nos.2 and 3 is to issue notice to the concerned parties to remain present on the date and the time fixed by them for carrying out the exercise of measurement.

4. In this view of the matter, we partly allow the petition. We direct respondent nos.2 and 3 to carry out the measurement exercise, as desired by the petitioner, as early as possible, upon payment of necessary charges, preferably within a period of eight weeks from the date of the order, by following procedure established by law, which would necessarily contemplate giving of notice to the petitioner and the person who has allegedly encroached upon the land of the petitioner, to remain present for the purpose of measurement on the date and at the time and place indicated in the notice to be issued by the respondents. Petitioner is directed to submit name of the person, who has allegedly made encroachment, to respondent nos.2 and 3 within a period of one week from the date of the order. Parties to cooperate with the respondents in effecting due service of notice upon the alleged encroacher.

5. Rule is made absolute accordingly. Petition is disposed of.

[FIRDOSH P. POONIWALLA, J.]

[SUNIL B. SHUKRE, J.]