

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

WRIT PETITION NO.782/2023

Smt. Papitabai w/o Chandrakant Kukade

...Versus...

Virendra s/o Ramchand Kukade and another

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

Court's or Judge's orders

Shri I.N. Choudhari, Advocate for petitioner

CORAM : AVINASH G. GHAROTE, J.

DATE : 02/02/2023

1. The petition challenges the order dated 05/11/2022, whereby the application for appointment of Court Commissioner for measurement of the suit property has been rejected.
2. Shri Choudhari, learned counsel for the petitioner submits that the appointment of the Commissioner is necessary as the measurement placed on record is not an authenticated document.
3. It is necessary to note that the disputed property has been measured on 26/08/2021 by the Taluka Inspector of Land Records (T.I.L.R.), whose report is already on record at page 65. In case the petitioner/plaintiff is not satisfied by the report, it is open for her to bring the discrepancies in cross-

examination of the T.I.L.R., when he is brought as a witness by the defendants. That apart, it is always permissible for the plaintiff/petitioner, to move an independent application before the T.I.L.R. for measurement, who may after following the due procedure, conduct the measurement. The suit is not for removal of encroachment but is for declaration and injunction. That being the position, I do not see any reason to interfere in the impugned order. The writ petition is therefore dismissed. No order as to costs.

(AVINASH G. GHAROTE, J.)

Wadkar