



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

Writ Petition (WP) No. 5538 of 2023

Shri Devrao Gulabrao Dandekar and others

Versus

Waman Baliram Wandhare and others

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

Court's or Judge's Order

Shri Muzammil Husain, Advocate for the petitioners.

CORAM : ANIL S. KILOR, J.

DATED : 28th AUGUST, 2023.

In a suit for declaration, filed by the respondents, an application moved by the defendant nos. 2 to 6/petitioners for appointment of Commissioner under Order XVI, Rule 9 read with Section 10-A of Code of Civil Procedure, came to be rejected vide impugned order dated 8th January, 2021 passed by the Civil Judge, Junior Division, Chimur, Dist. Chandrapur in Regular Civil Suit No. 48 of 2016, the same is the subject matter of the present writ petition.

2. In the application for appointment of Commissioner, the prayers of the petitioners are as follows:

“i] to appoint the Taluka Inspector of Land Record as Court Commissioner for measurement, investigation and scientific investigation of disputed land survey no.16, P.H.No.4, situated at Mouza Wadala (paiku), Tah. Chimur, Dist. Chandrapur regarding ascertain the exact encroachment of plaintiffs on the said land in question in the interest of justice.
ii] to pass any other order which this Hon’ble court deems fit & appropriate under the facts & circumstances of the case in favour of plaintiffs.”

3. Thus, it is evident that the petitioners want to appoint the Taluka Inspector of Land Record as Court Commissioner for measurement. Whereas, on 18th January, 2017, itself the measurement map was prepared by the Taluka Inspector Land Record, Chimur, and it was filed on record of the trial Court. Thereafter, the issues were framed and the matter was posted for recording of evidence.

4. In the above referred circumstances, as already corrected map based on measurement carried out by the Taluka Inspector Land Record, Chimur was filed on record, the application came to be rejected by observing that the genuineness and correctness of the map dated 18th January, 2017, can be decided on merit during the trial.

5. On rejection of the application, another application for review was filed, which came to be

rejected vide order dated 3rd July, 2023, on the point of limited scope of review.

6. Thus, considering the above referred findings recorded by the trial Court, I do not find any error committed by the learned trial Court. Accordingly, the writ petition is dismissed.

[ANIL S. KILOR, J.]