



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

**26 APEAL FROM ORDER NO. 35 OF 2018
WITH
CIVIL APPLICATION NO. 5505 OF 2018
IN AO/35/2018**

**WITH
CIVIL APPLICATION NO. 7980 OF 2018
IN AO/35/2018**

**CHANDRAKANT SONAJIRAO GHODKE AND ANOTHER
VERSUS
MUKUND UTTAMRAO ADWANT AND OTHERS**

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Mr. Shahaji Ghotol Patil h/f Mr. Kale Virendra B. Advocate for the
Petitioners

Mr. V. S. Badakh, AGP for Respondent Nos.3

Mr. P. F. Patni, Advocate for Respondent No.1

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**CORAM : SANDIPKUMAR C. MORE, J.
DATED : 05/02/2024.**

P. C. :

1. Heard rival submissions.
2. The appellant has challenged the order of learned first appellant court i.e. District Judge-2, Aurangabad in the present appeal whereby the matter is remanded back to the learned trial court directing the TILR to measure land in dispute and for giving opportunity to both the parties to lead their evidence additionally. On going through the impugned judgment, it appears that rival parties had in fact applied for measurement. Moreover, there are

number of judgments by this court as well as Hon'ble Apex Court that in case of dispute over the boundaries, joint measurement is the best solution. The option of joint measurement has already opted by the rival parties as reflected from the impugned judgment. Moreover, the learned first appellate court had already granted an opportunity of leading evidence to rival parties in respect of the joint measurement. Therefore, there appears no perversity in the order of remand at this juncture. Accordingly, when the respondent Nos.1 had conceded the request for joint measurement, there is no substance in the present appeal and therefore, it stands dismissed and disposed of accordingly.

3. In view of the disposal of the appeal from the order, pending civil applications also stand disposed of accordingly.

(SANDIPKUMAR C. MORE, J.)