



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

20 WRIT PETITION NO. 11006 OF 2024

SURESH BAJIRAO PAWAR
VERSUS
ASHOK BHASKAR MORE AND OTHERS

...
Advocate for the Petitioner : Mr. Pramod P Dhorde
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CORAM : ARUN R. PEDNEKER, J.

Dated : October 07, 2024

PER COURT :-

1. By the present writ petition, the petitioner challenges the impugned order dated 25.1.2024 below Exh. 120 in R.C.S. No. 146/2006 passed by the learned 2nd Jt. Civil Judge, Junior Division, Jalgaon.
2. In view of decision in R.C.S. No. 122/2013 dated 22.9.2021 R.C.S. No. 146/2006 was remanded back for retrial with direction to carry out the fresh measurement and as per the said order, measurement was conducted and the same was placed on record at Exh. 118. In view of the above, the application, Exh. 120, is filed by plaintiff/respondent No. 1 herein for amendment of the plaint to incorporate necessary details in the plaint alongwith relief clause. The same is allowed by the Trial Court.
3. The learned counsel for the petitioner/original defendant No. 1 submits that the application ought not have been allowed by the Trial Court as the measurement carried out by the cadastral surveyor is erroneous and encroachment is wrongly recorded in the measurement. Hence, the present writ petition is filed.
4. The petitioner can defend the measurement before the Trial Court by cross-examining the concerned witness. The same relates to the merits of

the matter and defendant No. 1/petitioner will have all the opportunity to file appropriate application before the Trial Court to defend the measurement carried out by the cadastral surveyor. As such, I see no reason to interfere in the impugned order passed by the Trial Court. With the above observations, the writ petition is dismissed.

(ARUN R. PEDNEKER, J.)

ssc/