



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

961 WRIT PETITION NO. 9342 OF 2014

...
PRAMOD RAMKRUSHNA THAKUR
VERSUS
LOCHANA BHARAT GADE AND ANOTHER

...
Advocate for the petitioner : Adv.B.D.Kudale
Advocate for Respondent nos. 1 and 2 : Adv.R.J.Nirmal h/f.
Adv.R.R.Kale
...

CORAM : ARUN R. PEDNEKER, J.
DATE : 17.04.2024

P.C. :

1] The learned counsel for the petitioner submits that the petitioner filed RCS No.08/2012 for possession of the encroached portion of 14 R. against the respondents. On 04.04.2012, the respondents filed written statement in the said suit. The learned counsel further submits that on 17.01.2013 the petitioner filed an application below Exh.36 for appointment of Court Commissioner and the same is allowed by the trial Court by order dated 26.04.2013. The relevant portion of the order dated 26.04.2013 is as under :

(ड) टी. आय. एल. आर. माजलगाव यांनी गट न. १६ ची वहिवाटीप्रमाणे मोजणी करून अतिक्रमण, रस्ते, चारी, व इतर सर्व बाबी नकाशात स्पष्टपणे वेगवेगळ्या रंगाने दर्शवून खुणीसह नकाशा त्वरित दाखल करावा.

(इ) प्र.वादींना वादीने खर्च दाखल ४००/- द्यावेत.

2] The learned counsel for the petitioners further submits that in pursuance of the said order, the Taluka Inspector of Land Record carried out measurement and submitted map and report. However, report submitted by the TILR is adverse to the petitioner – plaintiff. The plaintiff again on 16.04.2024 filed an application below Exh.45 for appointment of Superior Officer contending that the TILR has not carried out measurement as per the order of the Court. The learned counsel further submits that by order dated 01.09.2014, the trial Court rejected the said application. The learned counsel for the petitioner submits that the impugned order passed by the trial Court is illegal.

3] The TILR was appointed at the instance of the petitioner–plaintiff and TILR has carried out the measurement. TILR has submitted report to that effect before the trial Court and the same is adverse to the

petitioner – plaintiff. The petitioner – plaintiff cannot file repetitive application for appointment of Court Commissioner till the report comes favourable to the plaintiff. Considering the said fact, I do not see any reasons to interfere with the impugned order passed by the trial Court. Hence, the present Writ Petition is dismissed. The validity and correctness of the report is yet to be adjudicated upon and the petitioner can raise all such defences available in law.

4] In the fact situation, since civil suit is pending since long, the trial Court to decide the same within a period of two year from the date of production of this order.

[ARUN R. PEDNEKER]
JUDGE

DDC