

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 17287 OF 2024.

Annasaheb Sopanrao Pawar and Others.

...Petitioners.

Versus

Vivek Mahadev Yadav and Another.

...Respondents.

*Mr. Drupad Patil i/b Mr. Nikhil Ghate for the Petitioner.
Ms. Snehal Jadhav, AGP for Respondent-State.*

Coram : Sharmila U. Deshmukh, J.

Date : December 2, 2024.

P. C. :

1. At the outset, learned counsel for the petitioner seeks permission to add the State Government as Party-Respondent. Amendment to be carried out forthwith. Learned AGP waives for State.
2. By this petition, the challenge is to the order of Deputy Director of Land Records setting aside the order of District Superintendent of Land Records rejecting the Respondent's application for measurement of 23 gunthas out of 24 acres of land based on the Sale Deed executed by one of the co-owners in favor of Respondent.
3. Learned counsel appearing for the Petitioner would submit that the property is undivided joint hindu family property and without applying for partition of property, no measurement could be sought by the Respondents. He submits that the District Superintendent of Land

Records as well as Deputy Superintendent of Land Record have rightly rejected the Application for measurement which was set aside by the impugned order. He would further submit that without partition, none of the co-owners have any defined share and therefore, measurement could not be carried out.

4. Issue Notice to the Respondents returnable after period of four weeks. This Court is informed that the measurements are scheduled on 4th December, 2024. Considering the submission that the property is a joint undivided family property in which the co-owners do not have any defined share and remedy of purchaser from a co-owner of undivided joint family property is to seek partition, the measurement of 23 gunthas based on Sale Deed executed by one of the co-owners cannot be permitted to be carried out. Hence, case for grant of Ad-interim relief is made out. Ad-interim relief in terms of prayer clause 'b' is granted. List on **7th January, 2025.**

[Sharmila U. Deshmukh, J.]