



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

WRIT PETITION NO.3910 OF 2024

(Ms. Bijabai Sunil Waghmare and others Vs. Shankar Shravan Lende and others)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. U. A. Gosavi, Advocate for Petitioners.
Mr. A. Y. Yerkhede, Advocate for Respondent Nos.1, 3, 5 to 8 & 11 to 14.
Mr. Y. N. Thengre, Advocate for Respondent Nos.16 & 17.

CORAM: N. R. BORKAR, J.

DATE: 25th SEPTEMBER, 2024.

This petition takes exception to the order dated 23rd April, 2024 passed by the learned Joint Civil Judge, Junior Division, Kuhi below Exhibit-84 in Regular Civil Suit No.94/2023.

2. By the order impugned the learned trial Court has allowed the application filed by the respondent Nos.1 to 15 original defendant Nos.4 to 18 for appointment of Court Commissioner to measure the suit properties.

3. I have heard the learned counsel for the parties.

4. The learned counsel for the petitioners submits that there are already two measurement reports on the record of the trial court. It is submitted that the trial Court therefore, erred in allowing the application.

5. In the alternative it is submitted that even otherwise the petitioners who are co-defendants can not be asked to bear the expenses for measurement.

6. On the other hand the learned counsel for respondent nos.1 to 15 submits that the trial Court has rightly allowed the application.

7. I have perused the impugned order. Considering the nature of dispute between the parties, the learned trial Court has rightly allowed the application. However, the petitioners can not be asked to pay the expenses for the measurement. The impugned order to that extent is therefore, quashed and set aside.

8. The petition is disposed of in aforesaid terms.

(N. R. BORKAR, J.)