



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

Writ Petition (WP) No. 600 of 2024

Arun Sheshrao Raut

Versus

Narayan Punjaji Adhau (Dead) through legal representatives Sadanand
Narayan Adhau and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.B.Mirza, Advocate for the petitioner.

CORAM : ANIL S. KILOR, J.

DATED : 29th JANUARY, 2024.

Heard.

2. This writ petition is filed at the behest of the defendant in a suit for removal of encroachment, challenging the Order Below Exhibit 59 dated 8th June, 2023 passed by the Joint Civil Judge, Junior Division, Akot in Regular Civil Suit No. 21 of 2016, thereby appointing the Court Commissioner to carry out the joint measurement of land of plaintiff and defendants i.e. field Gat No. 236 and 235 respectively, is under challenge.

3. Learned counsel for the petitioner submits that earlier also the measurement was carried out and the map was filed on record and therefore there is no reason to re-measure the land.

4. However, after going through the impugned order, it is evident that the Court has considered the request of the plaintiff on the ground that the earlier measurement has been denied by the defendant and since there is no field map on record, the learned trial Court has reached to the conclusion that such measurement is necessary.

5. Learned counsel for the petitioner submits that no purpose would be served by measuring only field gat nos. 235 and 236, but the entire land survey would be measured and no such order has been passed. The prayer clause made in the present writ petition does not show that, any modification is sought in this petition to the above referred effects or any such stand was taken or raised before the trial Court. In the circumstances, such argument cannot be accepted and accordingly it is rejected.

6. Having held by the learned trial Court in paragraph 6 that, there is no correct map on record, for that purpose measurement of land in dispute is necessary to the Court Commissioner, I do not find any illegality committed by the learned trial Court. Accordingly, the writ petition is dismissed.

[ANIL S. KILOR, J.]