



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

995 WRIT PETITION NO. 641 OF 2018

Rustumrao Ramji Vanje

VERSUS

Gram Panchayat Kawalgaon Through Its Gramvikas Adhikari And
Another

...

Mr. U. M. Maske Patil h/f Mr. Shahaji B. Ghatol Patil - Advocate for the
Petitioner

Mr. Panditrao S. Anerao – Advocate for Respondent No. 1

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CORAM : NEERAJ P. DHOTE, J.

DATED : 12TH AUGUST 2025

PER COURT : -

1. Learned Advocate for the Petitioner submits that, the Civil Suit No. 76 of 2016 has been dismissed for want of prosecution and, therefore, the Petition be disposed off as become infructuous. He submits that the liberty be given to file afresh petition in case the said Suit is restored back to the file.

2. Learned Advocate appearing for Respondent No. 1 – Gram Panchayat tenders across the bar a copy of the order dated 26.09.2022 by which the Civil Suit came to be dismissed for want of prosecution. He submits that, no liberty be granted to file such Petition.

3. This Petition is directed against the order dated 11.12.2017 passed by learned Ad-hoc District Judge-2, Parbhani in M.C.A. No. 40/2016. Perusal of the said order, a copy of which is at Exh. 'G' of the

Petition, makes it clear that the Appeal was disposed off by consent of both the sides. The relevant paragraphs no. 4 and 5 and the operative order are reproduced as under : -

“04. Heard both the parties. During the arguments, both the parties are in agreement to appoint the court commissioner to resolve the dispute between the parties finally. Both the parties also agree to dispose of the appeal by directing the trial court to appoint court commissioner as per Exh.21 and continue with the trial court's order of injunction till further order.

05. In view of consensus between the parties, I am of the opinion that the appeal can be disposed of by directing the trial court to appoint court commissioner for measurement of house nos. 729 and 730 at village Kawalgaon through T.I.L.R. Purna. In the result, following order.

“ORDER

01. Appeal is disposed of and trial court's order dated 25/07/2016, passed below Exh.05 in Regular Civil Suit No.33/2016, to continue till further order or modified by the trial court.

02. In view of Exh.21 in Misc. Civil Appeal this court directs the trial court to appoint qualified surveyor from the office of Taluka Inspector of Land Records as a commissioner to measure house nos. 729 and 730 at village Kawalgaon Tq. Purna Dist. Parbhani.

03. The trial court to direct the commissioner that before measurement he shall secure public records relating to the house numbers, ascertain undisputed or settled boundaries, measure both the houses with the help of four boundaries mentioned in saledeeds and fix the boundaries.

04. The commissioner shall furnish his report of commission within 3 (three) months of receipt of the writ of the trial court.

05 to 09.”

4. In view of the above submissions, the Writ Petition is disposed off as infructuous.

[NEERAJ P. DHOTE]
JUDGE

SG Punde