



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

983 WRIT PETITION NO. 1690 OF 2022

DILIP RAMDAS JADHAV AND ANOTHER
VERSUS
JAGANNATH GANPAT SASANE AND OTHERS

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Mr. N.C. Garud – Advocate for Petitioners
Mr. V.B. Munot – Advocate for Respondents

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CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 10.12.2025

PER COURT :

1. Heard learned Counsel for the respective parties.
2. The petitioners are challenging the order dated 15.12.2021 passed below Exhibit 141 by the 2nd Jt. Civil Judge, Senior Division, Ahmednagar in R.C.S. No.197/2014, whereby the application filed by the petitioners to lead secondary evidence and for calling the T.I.L.R. as a witness came to be rejected.
3. Learned Counsel for the petitioners submits that the petitioners filed the application below Exhibit 141 contending that initially summons had been issued to the T.I.L.R. vide Exhibit 139 and even a warrant was issued, however the T.I.L.R. did not remain present. Therefore, in the said application it was specifically stated that permission is required to lead secondary evidence and brought my attention to the documents i.e. measurement (*Mojani*) Register No. 117 dated 03.02.1986 and

measurement (*Mojani*) Register No.1672 dated 24.07.1967 are referred at pages 55 and 56 of this petition.

4. Learned Counsel for the respondents opposed the prayer on the ground that said *Mojani* register do not form part of official record, therefore, they cannot be exhibited as per Sections 68 and 83 of the Indian Evidence Act, 1872.

5. I have gone through the order passed by the learned Trial Court. Earlier summons and even warrant was issued against the T.I.L.R. and since the documents referred above are very old, the T.I.L.R.'s non – appearance cannot be a ground to refuse the petitioners' request. It is necessary to permit the petitioners to lead the evidence and prove those documents as secondary evidence. The learned Trial Court has committed an apparent error on the face of record in rejecting the application. Therefore, I am inclined to quash and set aside the order passed by the learned Trial Court.

6. In view thereof, the Writ Petition is allowed. The order dated 15.12.2021 passed below Exhibit 141 by the 2nd Jt. Civil Judge, Senior Division, Ahmednagar in R.C.S. No.197/2014 below Exhibit 141 is quashed and set aside.

7. The application Exhibit 141 stands allowed.

[SIDDHESHWAR S. THOMBRE, J.]