



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

WRIT PETITION NO. 3416 OF 2025

Mahadeo Sarjerao Choudhari And Others .. Petitioners

Versus

Abasaheb Rambhau Zambare And Others .. Respondents

Mr. Shashikant E. Shekade, Advocate for the Petitioners.

CORAM : KISHORE C. SANT, J.

DATED : 26th MARCH, 2025.

P. C. :-

. Heard learned advocate for the petitioners.

2. The petitioners have approached this Court challenging the impugned order dated 05.12.2024 passed by the learned Civil Judge Junior Division, Ashti thereby rejecting the application of the petitioners-original plaintiffs for appointment of Commissioner under Order 26 Rule 9 of the Code of Civil Procedure. The petitioners had prayed for fixing the boundary by appointing officer from District Superintendent of Land Record, Beed. The leaned Court has rejected the application stating that, the petitioners have already given sufficient evidence on record. The suit is only for injunction and therefore, it is not necessary to go for fresh measurement of the suit land.

3. The learned advocate for the petitioners vehemently argued the petition. He submits that, the petitioners have produced on record map and also the evidence, however, still to verify the present position it is necessary to appoint a Commissioner so as to ascertain the measurement of the alleged road.

4. After hearing the parties this Court finds that, the learned Trial Court has rightly observed that, it is only a suit for injunction and therefore, there is no need to measure the land. The injunction is sought against the respondents not to interfere the petitioners possession.

5. Considering this, this Court finds that, there is no need to go for measurement. This Court finds that, there is no illegality or perversity in the order passed by the learned Trial Court. The writ petition, therefore, stands dismissed. No order as to costs.

6. Considering that the suit is old one, the learned Trial Court to decide the suit as early as possible and preferably within nine (09) months from today.

(KISHORE C. SANT, J.)