



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

943 WRIT PETITION NO. 2523 OF 2024

Hanmant Venkatrao Patil And Others

VERSUS

Balwant Venkatrao Patil And Others

...

Mr. Vikas G. Kodale, Advocate for the Petitioners

Mr. Vivek C. Solshe, Advocate for Respondent Nos.1 to 5.

...

CORAM : ROHIT W. JOSHI, J.

DATE : 21st AUGUST, 2025

P.C.:

1. Heard finally by consent of the parties.
2. The petitioner is the original plaintiff who has filed a suit for declaration and perpetual injunction with respect to land bearing Gut No.1/1/1 admeasuring 3.64 HR and land bearing Gut No.1/2 admeasuring 4.79 HR of village Limbalwadi, Tq. Chakur, District Latur along with a relief of perpetual injunction restraining the defendants from interfering with possession of the plaintiff over the aforesaid suit property. It is contended that the defendants who are owners of land bearing Gut No.3 in the said village are trying to encroach upon the suit properties by disturbing the common boundary separating lands owned by the plaintiffs and defendants. The defendants filed written statement admitting ownership of respective properties. In this suit an application for appointment of Court Commissioner for joint measurement of suit

lands bearing Gut No.1/1/1/ and 1/2 along with land bearing Gat No.3 was filed which is rejected by the learned Trial Court. The learned Advocate for defendant Nos.1 to 5 who are original defendants states that the defendants do not have any objection for appointment of measurement of the lands since the dispute pertaining to boundary is involved.

3. Respondent nos.6 and 7 have not entered appearance though duly served. It will be pertinent to state that respondent nos.6 and 7 are not contesting the suit and an order to proceed ex-parte is already passed against them. In view of the no objection given by respondent nos.1 to 5 the contesting defendants as also having regard to the legal position that joint measurement for adjoining lands is necessary in order to resolve boundary dispute, Writ Petition deserves to be allowed and is **allowed** as such.

4. Order dated 12.01.2024 passed by the learned Civil Judge, Junior Division, Chakur below Exhibit 7/1 in Regular Civil Suit No.74 of 2023 is quashed and set aside and application at Exhibit 7/1 in Regular Civil Suit No.74 of 2023 is allowed.

[ROHIT W. JOSHI J.]